Supreme Court, U.S.
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No. 15-513

IN THE

Supreme Court of the United States

STATE FARM FIRE AND CASUALTY COMPANY,

Petitioner,

v.

UNITED STATES, EX REL. CORI RIGSBY, ET AL.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

JOINT APPENDIX
VOLUME I OF III

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Order of the United States District Court for the Southern District of Mississippi Southern Division (April 26, 2006)

IN THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DIVISION

UNITED STATES OF AMERICA, EX REL., CORI RIGSBY, AND KERRI RIGSBY,

Relators

vs

STATE FARM INSURANCE COMPANY

NATIONWIDE INSURANCE COMPANY

ALLSTATE INSURANCE COMPANY

USAA INSURANCE COMPANY

FORENSIC ANALYSIS ENGINEERING CORPORATION

EXPONENT FAILURE ANALYSIS

HAAG ENGINEERING CO.

JADE ENGINEERING

RIMKUS CONSULTING GROUP INC.

STRUCTURES GROUP.

CASE NO.1:06cv433 WJG-JMR

TO BE FILED IN CAMERA AND UNDER SEAL

Pursuant To 31 USC § 3731

ORDER

Pursuant to Federal False Claims Act, 31 U.S.C. §3729 *et. seq.*

IT IS HEREBY ORDERED that the Complaint filed in this action shall be received *In Camera* and under Seal and shall not be served on Defendants until further order of this Court.

IT IS FURTHER ORDERED that neither this Order nor the underlying Complaint appear on any docket available to the public until further Order of this Court.

SO ORDERED, this 26th day of April, 2006.

Robert H. Walker
UNITED STATES MAGISTRATE JUDGE

Order Granting Extension of Time to Consider Election to Intervene of the United States District Court for the Southern District of Mississippi Southern Division (December 7, 2006)

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DIVISION

CORI RIGSBY,

PLAINTIFF

V.

STATE FARM INSURANCE COMPANY, ET AL.

DEFENDANTS

CIVIL ACTION NO. 1:06CV433 LTS-RHW

ORDER GRANTING EXTENSION OF TIME TO CONSIDER ELECTION TO INTERVENE

Upon due consideration of the unopposed motion [3] of the United States of America for an extension of time to consider its option of electing whether to intervene in this action, it is hereby

ORDERED

That the motion [3] for an extension of time to consider election of intervention is hereby **GRANTED**; and

The time within which to make this election is hereby **EXTENDED** to February 5, 2007.

Decided this the 7th day of December, 2006.

s/ L.T Senter, Jr.
L.T. Senter, Jr.
SENIOR JUDGE

Order for Partial Lifting of the Seal of the United States District Court for the Southern District of Mississippi Southern Division (January 10, 2007)

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DIVISION

UNITED STATES OF AMERICA, EX REL. CORI RIGSBY AND KERRI RIGSBY,

PLAINTIFFS

VERSUS

STATE FARM INSURANCE COMPANY, ET AL

DEFENDANTS

CIVIL ACTION NO. 1:06CV433-LTS-RHW

ORDER FOR PARTIAL LIFTING OF THE SEAL

Comes now the Court, and having been apprised of the facts and the need to partially lift the seal of this sealed case, the Court now orders:

> Permission is granted to disclose the existence of this case to Judge William M. Acker, Jr., and any other judicial or court officer who is or may be assigned to Case # 2:06-cv-01752-WMA, in the United States District Court for the Northern District of Alabama.

SO ORDERED, this the 10th day of January, 2007.

Robert H. Walker

UNITED STATES MAGISTRATE JUDGE

[Proposed] Order of the United States District Court for the Southern District of Mississippi Southern Division (January 19, 2007)

THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DIVISION

UNITED STATES OF AMERICA, ex rel., CORI RIGSBY, et al.,

Plaintiff,

v.

STATE FARM INS. CO., et al.

Defendants.

CIVIL NO. 1:06CV433 LTS-RHW

FILED UNDER SEAL

[PROPOSED] ORDER

Upon consideration of the United States' unopposed ex parte motion, pursuant to the False Claims Act, 31 U.S.C. §3730(b)(3), for a six-month extension of time, *nunc pro tunc* from January 3, 2007 to and including July 3, 2007, in which to determine whether or not to intervene in the above-captioned action and during which the complaint and other filings shall remain under seal, it is hereby

ORDERED *nunc pro tunc* that the United States shall have until and including July 3, 2007 to intervene in the above-captioned action or to notify the Court that it declines to do so; and

FURTHER ORDERED *nunc pro tunc* that the complaint and all other filings shall remain under seal until and including July 3, 2007, unless the United States requests that the seal be lifted prior to that date.

Robert H. Walker
UNITED STATES MAGISTRATE JUDGE

Dated: 1-19-07

[Proposed] Order of the United States District Court for the Southern District of Mississippi Southern Division (May 17, 2007)

THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DIVISION

UNITED STATES OF AMERICA, ex rel., Cori Rigsby, et al.,

Plaintiff,

v.

STATE FARM INS. CO., et al.

Defendants.

CIVIL ACTION NO.1:06cv433 LTS-RHW

FILED UNDER SEAL AND IN CAMERA

[PROPOSED] ORDER

Upon consideration of the United States' application for a stay of the above captioned qui tam proceeding until the conclusion of a related criminal investigation, and good cause being shown, it is hereby ORDERED that

1. This action is hereby stayed until the conclusion of the related criminal investigation;

2. The United States shall notify the Court every four months as to whether this stay continues to be justified;

3. The United States shall notify the Court promptly upon the conclusion of that criminal investigation; and

4. The Complaint and all other filings shall remain under seal during the duration of this stay.

ORDERED ON THIS THE 17TH DAY OF MAY, 2007

Robert H. Walker
UNITED STATES DISTRICT COURT

Order Unsealing Case of the United States District Court for the Southern District of Mississippi Southern Division (August 1, 2007)

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF MISSISSIPPI,
SOUTHERN DIVISION

SEALED

PLAINTIFF

VERSUS

SEALED

DEFENDANTS

CIVIL ACTION NO.1:06CV433-LTS-RHW

ORDER UNSEALING CASE

Before the Court is Relators' Motion to Unseal the case. This lawsuit was filed under the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730. The United States of America, through the U.S. Attorney's Office, has not decided yet whether to intervene in the action. The Government has filed a Motion for Partial Lifting of the Seal. The Government argues against a full lifting of the seal because it would "compromise the Government's ability to conduct an adequate civil investigation of this case." The Government gives no explanation for how the investigation would be compromised by unsealing the case.

The Court has reviewed the pleadings and finds that Relators' Motion to Unseal should be granted.

IT IS THEREFORE ORDERED AND ADJUDGED that Relators" Motion to Unseal is Granted, and the clerk of court is directed to unseal the case in its entirety.

IT IS FURTHER ORDERED that discovery is stayed until further order of the Court.

SO ORDERED, this the 1st day of August, 2007.

s/ Robert H. Walker
UNITED STATES MAGISTRATE JUDGE

Memorandum Opinion of the United States District Court for the Southern District of Mississippi Southern Division (May 19, 2008)

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DIVISION

UNITED STATES OF AMERICA EX REL. CORI RIGSBY and KERRI RIGSBY

RELATORS

V.

STATE FARM INSURANCE COMPANY, ET AL.

DEFENDANTS

CIVIL ACTION NO. 1:06CV0433-LTS-RHW

MEMORANDUM OPINION

The Court has before it State Farm Fire & Casualty Company's (State Farm) motion [103] to disqualify plaintiffs' counsel, Bartimus, Frickleton, Robertson & Gorny, PC and Bartle, Marcus & Graves, PC, (the current attorneys) from further participation in this action. For the reasons set out below this motion will be granted.

Relators Cori Rigsby and Kerri Rigsby (the Rigsby sisters) bring this action under the False Claims Act, 31 U.S.C. §§ 3729-3733. The original complaint was filed on April 26, 2006, and an amended complaint was filed on May 22, 2007. The original and amended complaints identify the following individuals and firms as co-counsel for the Rigsby sisters:

The Scruggs Law Firm
Richard F Scruggs (Scruggs)
Sid Backstrom
Zachary Scruggs

Bartimus, Frickleton, Robertson & Gorny, P.C.
Edward D. Robertson, Jr. (Robertson)
Anthony L. DeWitt (DeWitt)
Mary Doerhoff Winter (Winter)

Bartle, Marcus & Graves, PC
Todd Graves (T Graves)

The False Claims Act authorizes individuals, in this instance the Rigsby sisters, to bring a civil action on behalf of the United States against anyone who knowingly presents a false claim to the government. The United States has the option to intervene in the case. If, as is the case here, the United States declines to intervene, the relator may proceed with the lawsuit on behalf of the United States, and if the suit is successful the relator is entitled to a share of the recovery. The United States is the real party in interest, even when it declines to intervene. *United States ex rel. Lu v. Ou*, 368 F.3d 773 (7th Cir.2004).

The Rigsby sisters allege that the defendants (four insurance companies, seven engineering and adjusting firms, and three individuals) have conspired to enable the insurance companies to present false claims to the United States. These false claims allegedly took the form of requests for reimbursements of flood insurance benefits paid to policyholders following Hurricane Katrina. The Rigsby sisters allege

that the defendant insurance companies, acting in concert with the other defendants, wrongfully paid flood insurance benefits to cover property damage that was actually caused by storm winds and not by storm surge flooding. The Rigsby sisters assert that the insurance company defendants overpaid flood claims in order to reduce their obligation to pay wind damage claims under their homeowners policies.

Typically, a home owner purchases both flood insurance and homeowners insurance from the same private insurer. Wind damage is an excluded peril under the standard flood insurance policy, and it is among the perils usually covered by the defendants' homeowners policies. Flood damage is excluded from the defendants' homeowners policies. The insurer is authorized by the Flood Insurance Act to both sell the flood insurance policy and adjust flood claims, under regulations issued by the United States. Flood claims are adjusted and paid by the private insurance company, but the flood insurance payments the insurers make are reimbursed by the United States.

The Rigsby sisters were claims managers employed by E. A. Renfroe, Inc. (Renfroe), an independent adjusting service. The Rigsby sisters assert that they detected the defendants' alleged misconduct in the course of their work for Renfroe. Upon their discovery of this misconduct, the Rigsby sisters made contact with Richard Scruggs, a Mississippi attorney, and told him what they had discovered. On Scruggs's advice, the Rigsby sisters brought this matter to the attention of the Mississippi Attorney General and the United States Attorney for the Southern District of Mississippi. The Rigsby sisters

made copies of hundreds of the claims files Renfroe was handling, and they delivered these documents to the law enforcement officials they had notified. Scruggs also obtained copies of these documents from the Rigsby sisters.

Scruggs accepted these documents with knowledge that the Rigsby sisters had purloined the documents from the claims files Renfroe was handling. When the Rigsby sisters told their Renfroe superiors what they had done, their employment with Renfroe was terminated. Scruggs made an arrangement with the Rigsby sisters after their employment with Renfroe was terminated, and, under the terms of this arrangement, Scruggs paid each of the Rigsby sisters an annual salary of $150,000 to act as "consultants" for his law firm in connection with hurricane damage claims. Discovery conducted in individual cases seeking insurance benefits for hurricane damage has disclosed that the "consulting" arrangement was a sham. The Rigsby sisters were not required to perform any regular duties under this arrangement, nor were they required to keep any regularly scheduled hours. From the standpoint of the attorney directly involved, Scruggs, the payments under this arrangement were improper and unethical. The Rigsby sisters were obviously material witnesses in many storm damage claims Scruggs was handling, and Scruggs knew this at the time he agreed to make these payments. The Rigsby sisters were also Scruggs's clients, and, as I noted above, Scruggs filed this action, along with current counsel, on behalf of the Rigsby sisters.

At the time Scruggs made the arrangement with the Rigsby sisters he was part of a joint venture known as the Scruggs Katrina Group (SKG). The SKG was a consortium of five law firms that were actively engaged in pursuing individual insurance claims for storm damage. Scruggs and his firm withdrew from the cases the SKG was handling (and from this case) when Scruggs and two of his associates (Sid Backstrom and Zachary Scruggs) were indicted for their parts in a scheme to bribe a state court judge. Scruggs and his associates have since pleaded guilty.

Because the other members of the SKG knew or should have known of Scruggs's improper financial arrangement with the Rigsby sisters, Judge William Barbour (in *Shows v. State Farm Fire & Cas. Co.*, No. 1:07 CV 709) and I (in *McIntosh v. State Farm Fire & Cas. Co.*, No. 1:06 CV 1080) have disqualified the other members of the SKG and those who were associated with them from further participation in the storm damage cases pending in this court. I made my ruling on the issue of disqualification because the other SKG members' participation in these cases, after they knew or should have known of Scruggs's improper payments, was, in my view, a ratification of Scruggs's professional misconduct. I also disqualified any counsel the SKG or its members had associated as co-counsel to assure that the judicial process in these cases could proceed free of the effect of Scruggs's misconduct. To this same end, I disqualified the Rigsby sisters as witnesses in these individual cases, and I ruled that any documents the Rigsby sisters had taken from Renfroe would be excluded from evidence unless these documents were obtained through the ordinary channels of discovery.

The issue now before me is whether the Rigsby sisters' current attorneys stand on a substantially different footing from the members of the SKG and their associated counsel with respect to the improper payments Scruggs undertook, and whether the circumstances of this case or the nature of this action under the False Claims Act requires a different outcome.

The nature of this case does not, in my opinion, change the standard of conduct required of the attorneys. Attorneys are subject to the same ethical obligations regardless of whether they are representing a civil litigant in an insurance contract dispute or in an action under the False Claims Act.

The current attorneys were not part of the SKG joint venture, but from the time they agreed to associate themselves with Scruggs to represent the Rigsby sisters in this action they were engaged in a cooperative effort equivalent to a joint venture under Mississippi law See: *Duggins v. Guardianship of Washington ex rel. Huntley*, 632 So.2d 420 (Miss.1993).

I accept the representations of the current attorneys that they had no actual knowledge concerning the financial arrangement between Scruggs and the Rigsby sisters until "the late Summer or early Fall of 2006" (Robertson Declaration Paragraph 16), several months after they agreed to act with Scruggs as co-counsel in this case. There is no accusation that the current attorneys have paid the Rigsby sisters under any arrangement or given the Rigsby sisters anything of value. Thus the question is whether, like other associated counsel, the current attorneys'

relationship with Scruggs was such that they can be fairly said to have condoned or ratified this arrangement. To determine that issue, I must consider what action the current attorneys took when they learned of their co-counsel Scruggs's on-going financial arrangement with the Rigsby sisters.

While it is questionable, at best, whether any legitimate employment arrangement (i.e. any employment arrangement that involved a regular work schedule and the performance of genuine services for fair and reasonable compensation) can ethically be made between an attorney and his client or between an attorney and any individual known to be a potential non-expert material witness in a case the attorney is handling, I will stretch a point to give the current attorneys the benefit of the doubt on this issue, and I will assume without deciding that such an arrangement is at least theoretically possible. That said, once the current attorneys learned that there was a financial arrangement between Scruggs and the Rigsby sisters, they had a duty, in my opinion, to inquire into the arrangement in sufficient depth to determine its true nature, i.e. to determine the particulars of that arrangement. This inquiry would necessarily have included the question whether the compensation Scruggs was paying the Rigsby sisters was for legitimate work, at a fair rate of compensation, and whether the arrangement was compatible with the ethical duties of an attorney undertaking representation of the Rigsby sisters, along with Scruggs as co-counsel, on a claim under the False Claims Act. Had the current attorneys made and pursued that inquiry they would have discovered that the Rigsby sisters were material witnesses in many

litigated cases being handled by their co-counsel, Scruggs; that Scruggs was paying each of the Rigsby sisters $150,000 per year under a "consulting" agreement; that the Rigsby sisters were performing no regularly scheduled work in exchange for these payments; and that this arrangement was not consistent with the ethical duties that govern the conduct of attorneys.

When the current attorneys learned of the financial arrangement among Scruggs, their co-counsel in this case, and the Rigsby sisters, their clients, they took no action. While the current attorneys assert that they "affirmatively disavowed any participation in any payments to the Relators" (Relators' Response to Defendant State Farm's Motion To Disqualify the Law Firm of Bartimus, Frickleton, Robertson & Gorny, PC, Page 20 [141]) in fact they continued to represent the Rigsby sisters with Scruggs acting as their co-counsel. I do not consider this to be a repudiation or disavowal of Scruggs's arrangement with the Rigsby sisters. Rather, continuing to act as co-counsel with Scruggs and taking no other action after learning of this arrangement constitutes a tacit approval, if not an outright ratification of the arrangement. Since the Rigsby sisters were both material witnesses in many civil actions Scruggs was then handling and the relators in this action, the payments Scruggs was making were clearly improper. Although the role of current counsel was that of attorney for the Rigsby sisters in this particular False Claims Act case, current counsel could not simply turn a blind eye to the impropriety of these payments or to the circumstances in which the payments were being made. In light of the current attorneys' having

acquired, during the course of their joint representation of the Rigsby sisters, actual knowledge of the financial arrangement among their co-counsel, Scruggs, and the Rigsby sisters and constructive knowledge that the arrangement was improper, I find that the current attorneys should be disqualified from further participation as counsel in this action.

From the point of view of the Rigsby sisters, I see no evidence that at the time they made their arrangement with Scruggs they were aware of the ethical implications of such an agreement. Scruggs was both their attorney and their employer under this arrangement. The Rigsby sisters are not attorneys, and they are not bound by the rules of professional conduct that apply to Scruggs, the other members of the SKG, or the current attorneys. But all of these attorneys who undertook to represent the Rigsby sisters were operating under these rules of professional conduct, and all of these attorneys have a duty to adhere to the ethical rules that govern the conduct of members of the bar. Having become associated with Scruggs during the time this "consulting" arrangement was in existence, and having learned of this arrangement, the current attorneys were under a duty, at a minimum, to make a reasonable inquiry into the particulars of this arrangement, and they are charged with knowledge of what such an inquiry would have disclosed. Current counsel had ample opportunity to see the role the Rigsby sisters were playing in litigation against State Farm since at least April 2006. Thus, I find that the current attorneys knew or should have known that their co-counsel had entered an improper financial arrangement with their mutual clients, that the

current attorneys took no action after learning of this improper arrangement, and that the current counsel should therefore be disqualified from further participation in this case. An appropriate order will be entered.

DECIDED this 19th day of May, 2006.

s/ L.T. Senter, Jr.
L.T. SENTER, JR.
SENIOR JUDGE

Order of the United States District Court for the Southern District of Mississippi Southern Division (May 19, 2008)

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF MISSISSIPPI,
SOUTHERN DIVISION

UNITED STATES OF AMERICA EX REL. CORI RIGSBY and KERRI RIGSBY

RELATORS

V.

STATE FARM INSURANCE COMPANY, ET AL.

DEFENDANTS

CIVIL ACTION NO. 1:06CV0433 LTS-RHW

ORDER

In accordance with the Memorandum Opinion I have this day signed, it is hereby

ORDERED

That State Farm Fire & Casualty Company's motion [103] to disqualify plaintiffs' counsel, Bartimus, Frickleton, Robertson & Gorny, PC and Bartle, Marcus & Graves, PC, from further participation in this action is **GRANTED**.

The disqualified attorneys shall furnish a copy of this order to the relators, and the relators are allowed a period of forty-five days from the date of this

order to either retain new counsel or notify the Court of their intention to proceed *pro se*.

SO ORDERED this 19th day of May, 2006.

s/ L.T. Senter, Jr.
L.T. SENTER, JR.
SENIOR JUDGE

Order of the United States District Court for the Southern District of Mississippi Southern Division (February 12, 2009)

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF MISSISSIPPI,
SOUTHERN DIVISION

UNITED STATES OF AMERICA EX REL. CORI RIGSBY and KERRI RIGSBY

RELATORS

v.

STATE FARM INSURANCE COMPANY, ET AL.

DEFENDANTS

CIVIL ACTION NO.1:06CV0433 LTS-RHW

ORDER

The recent voluntary dismissal of four defendants (Rimkus Consulting Group, Inc.; Jade Engineering; Exponent, Inc.; and Structures Group) leaves this action with nine parties: Relators Cori Rigsby and Kerri Rigsby versus Forensic Analysis Engineering Corporation; Haag Engineering Company; E. A. Renfroe, Inc.; Alexis King; Gene Renfroe and Jana Renfroe; and State Farm Mutual Insurance Company. Defendants Alexis King, Gene Renfroe and Jana Renfroe have not yet answered the Amended Complaint, and it is not clear from the record whether these three defendants have been properly served with process.

There are dispositive motions pending, both motions to dismiss and for summary judgment, and the Relators have asked the Court to allow them to conduct discovery before they are required to respond to these motions.

Because this is a case brought under the False Claims Act (FCA), 31 U.S.C. §3729, *et seq.*, the Relators' "direct and independent knowledge of the information on which the allegations are based" is essential to their qualifying as an "original source" where, as here, there has been a public disclosure of the alleged wrongdoing in the news media. 31 U.S.C. §3730(e)(4). "Relators found to have direct and independent knowledge are those who actually viewed source documents or viewed first hand the fraudulent activity that is the basis for their qui tam suit. *U.S. ex rel. Lam, 287 Fed.Appx. 396, 400 (5th Cir.2008).* "The paradigmatic 'original source' is a whistleblowing insider." *U.S. ex rel Stinson, Lyons, Gerlin & Bustamante, P.A. v. Prudential Ins. Co. 944 F.2d 1149, 1160 (3d Cir.1991)*

My reading of the Amended Complaint and the documents submitted in connection with the pending motions leads me to the following conclusions:

1. The merits of this action depend on evidence that the defendants, acting in concert, systematically submitted false flood insurance claims to the United States, claims that were not valid under the terms of the Standard Flood Insurance Policy (SFIP) used in the National Flood Insurance Program (NFIP).

2. It is the amount of the flood insurance claims that the Relators allege to be false, *i.e.* the allegation is that the defendants acted in concert to submit flood insurance claims in an amount greater than the flood damage that actually occurred.

3. The Relators allege that the motive for the submission of these false claims was the defendants' desire to reduce the exposure under State Farm homeowners policies, which covered wind damage, by exaggerating the extent of the flood damage where both types of policies were in force on the same property.

4. The Relators allege that the defendants had the opportunity to submit these false claims because the insurers are authorized to evaluate and settle claims for both wind damage and flood damage, and the adjustors and engineers the insurers hired were in a position to inflate the amount of flood damage they observed.

5. There is no allegation that the defendants ever submitted claims to the United States that were fabricated, only that the defendants acted in concert to inflate or exaggerate the amount of the legitimate flood insurance claims that they submitted.

The Court has now tried several storm damage cases and heard the testimony of various experts in the

context of disputes over whether property damage was caused by wind or by storm surge flooding. I have also had the opportunity to read and study many expert reports concerning this type of dispute. While the expert testimony has stood in sharp disagreement concerning the amount of damage that was done by the winds Katrina generated, there has been no disagreement among the experts that the forces generated by storm surge flooding are far greater than the forces attributable to wind alone. The forces generated by storm surge flooding at the shore line were absolutely devastating, and, in most cases, the question is how much wind damage had occurred by the time the storm surge reached the insured property. Residences along the shore line that were subjected to storm surge flooding sustained far more physical damage than adjacent neighborhoods further inland and out of reach of this type of flooding. The many cases in which nothing remained of the insured property after the storm except its foundation occurred only in the area where storm surge flooding occurred.

After Katrina, the Federal Emergency Management Association (FEMA), the agency responsible for administering the NFIP, relaxed the rules that applied to claims under SFIPs. FEMA extended the statutory deadline for filing proofs of loss and instructed the insurance companies who sold SFIPs and adjusted flood damage claims not to await the submission of a formal proof of loss in cases where extensive flood damage was observable in an on-site inspection.

Because the NFIP limits the amount of coverage available under a SFIP to $250,000 for a dwelling and

$100,000 for its contents, and because many of the homes that were subjected to storm surge flooding were at or near the shore line, where property values were relatively high, in many instances there was overwhelming evidence that regardless of the damage from wind, the damage from storm surge flooding exceeded SFIP policy limits. Of course, not all the homes damaged by storm surge flooding were insured under SFIPs for the statutory maximum coverages, but the extensive damage caused by storm surge flooding was also readily observable at many of these properties that had less than the maximum available coverage.

In their Amended Complaint, Relators identify two and only two specific instances in which they allege the submission of false flood damage claims: the McIntosh property situated at 2558 South Shore Drive, Biloxi, Mississippi; and the Mullins property situated at 6057 Pine Tree Drive, Kiln, Mississippi. The defendants assert that the Mullins property was not covered by a SFIP and that the SFIP payments made on the McIntosh property were fully justified in light of the flood damage there. McIntosh collected the statutory maximum SFIP coverage on his property, and the individual who supervised and approved this payment was one of the Relators.

My review of the material from the McIntosh case discloses that the McIntosh home was inundated with approximately six feet of water. The house was not reduced to a shell or left as a foundation only by the storm, so there was physical evidence from which the extent of flood damage could be reasonably estimated. Because this is a FCA case and because the

McIntosh property is the only property covered by a SFIP and identified in the Amended Complaint, I believe it is appropriate to conduct a hearing on the pending motions to allow the parties to present evidence concerning the question whether the payment of the flood insurance limits in the McIntosh case was justified, as a matter of law.

I am going to treat all of the dispositive motions [91] [96] [98] [106] [108] [115] [156] [160] [161] [179] [181] as motions for summary judgment because I will hear evidence outside the pleadings. To meet their burden of proof on their pending dispositive motions, the movants (the defendants) must show that there is no genuine issue of material fact and that the McIntosh flood insurance payments were justified, as a matter of law. If the defendants meet this burden of proof I will dismiss this action on its merits.

Accordingly, I will schedule a hearing on the pending motions at a time to be arranged through the clerk's office. Recent settlements of cases scheduled for trial make it possible for me to schedule this hearing in April, May, or June, and I have instructed the clerk's office to attempt to arrange a time for this hearing that is agreeable with all the parties. I believe we can hear the necessary evidence in one or two days, but I will allow as much time as necessary to afford all of the parties an opportunity to present the evidence necessary to determine whether there exist sufficient grounds to proceed with this action.

Because this is a qui tam case, I will **DENY** the Relators' motions [212] [230] to allow discovery before I hear the pending motions. I am interested in the

Relators' first hand knowledge of the conspiracy they have alleged, and no discovery is necessary to present evidence on this point. I am particularly interested in evidence that there was insufficient flood damage to the McIntosh property to justify payment of the applicable SFIP limits. The parties are free to present expert testimony on this issue if they see fit to do so, but any such expert testimony must be consistent with expert disclosures made at least thirty days before the hearing on this matter.

I will **GRANT** the Relators' motions [214] [215] for extensions of time to respond to the pending motion, and I will allow a period of fourteen days from the date of this order for the Relators to file a consolidated response to all the pending dispositive motions. I will **GRANT** the motion [226] of State Farm requesting eleven additional pages for briefing its rebuttal for its motion [98], and I will add eleven pages to the limits that would otherwise apply to the Relators' brief.

SO ORDERED this 12th day of February, 2009.

s/ L.T. Senter, Jr.
L.T SENTER, JR.
SENIOR JUDGE

Memorandum Opinion of the United States District Court for the Southern District of Mississippi Southern Division (August 10, 2009)

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DIVISION

UNITED STATES OF AMERICA EX REL. CORI RIGSBY and KERRI RIGSBY

RELATORS

V.

STATE FARM INSURANCE COMPANY, ET AL.

DEFENDANTS

CIVIL ACTION NO. 1:06CV0433 LTS-RHW

MEMORANDUM OPINION

The Court has before it ten substantive motions, seven filed by State Farm Fire and Casualty Company (State Farm), two by Haag Engineering Co. (Haag), and one by the Relators.

The Relators' motion [206] asks the Court to clarify an order [1173] entered in *McIntosh v. State Farm Fire & Casualty Co.*, Civil Action Number 1:06cv1080 LTS-RHW. That order prohibited the Relators from testifying in civil suits against State Farm. Relators now ask the Court to indicate whether this prohibition would apply to their testimony in this action. Because this action differs substantially from the other civil actions brought against State Farm, I

allowed the Relators to testify at the May 20 23, 2009, hearing on the pending motions to dismiss and for summary judgment. To the extent the Relators have relevant knowledge, they will be permitted to testify in all further proceedings in this action. To this extent, the Relators' motion for clarification [206] will be granted.

In its first motion [91], State Farm seeks dismissal of this action for lack of subject matter jurisdiction. Its second motion [96] is for summary judgment on the Relators' claim for retaliatory discharge from their employment. The third State Farm motion [98] seeks dismissal of this action under F.R.Civ.P Rule 12(b)(6) and 9(b). Haag's two motions [106] [108] are essentially its joinder in State Farm's two motions [91] [98] to dismiss. My ruling on these two State Farm motions [91] [98] will also apply to Haag's motions [106] [108].

The next four State Farm motions seek the exclusion of the Relators' four expert witnesses: Patrick J. Fitzpatrick, Ph.D. [294]; Keith G. Blackwell, Ph.D. [296]; R. Ralph Sinno, Ph.D. [298]; and David J. Favre [300]. I will address the motions [294] [296] [298] [300] challenging the qualifications of the Relators' expert witnesses in a separate opinion.

Because I have gone outside the pleadings and heard evidence in support of and in opposition to the merits of State Farm's and Haag's motions to dismiss [91] [98] [106] [108], I will treat all of these as motions for summary judgment. The summary judgment standard will therefore apply, and the motions will be granted only if the movants, State Farm and Haag, meet their burden to show there is no genuine issue of

material fact and they are entitled to judgment as a matter of law.

In reaching the merits of these motions I will take into consideration the testimony of the witnesses during the hearing I conducted May 20 23; the exhibits placed in the record during the hearing; and the affidavits, depositions and other documents already in the record at the time of the hearing as exhibits in support of and in opposition to these motions.

State Farm's Motion [91] and Haag's Motion [106] To Dismiss This Action for Lack of Subject Matter Jurisdiction

The False Claims Act, 31 U.S.C. §§ 3729 3733 (FCA or the Act), provides that a federal court has no jurisdiction to hear an FCA action brought by a private citizen and based on publicly disclosed information unless the individual bringing the action, the relator, is the original source of the information on which the claim is based. 31 U.S.C. §3730(e)(4) states:

> (A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative or [General] Accounting Office report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

> (B) For purposes of this paragraph, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided this information to the Government before filing an action under this section which is based upon the information.

The "information" referred to in paragraph (B) is the information in the Relators' amended complaint [16]. *Rockwell International Corp. v. United States*, 549 U.S. 457, 167 L.Ed.2d 190, 127 S.Ct. 1397 (2007) (*Rockwell*). I will assume, without deciding, these statutory provisions are applicable to Kerri Rigsby, the relator who has taken the lead in this action. I take this provisional approach because I am by no means certain this action is "based upon" the allegations made public by the Relators in the wake of Hurricane Katrina. While these public disclosures undoubtedly involved the same basic allegations made in the Amended Complaint, it is the Realtors who made the public disclosures. Thus the public disclosures are based upon the Relators' allegations and not the other way around.

In their amended complaint, the Relators allege two specific instances of the defendants' having presented false and fraudulent claims to the United States for reimbursement of payments State Farm made to settle flood damage claims under standard flood insurance policies (SFIP). One of these has been shown to be invalid. The sole remaining specifically-identified instance offered in support of the allegations

of the amended complaint involves the claim of Thomas and Pamela McIntosh (the McIntoshes).

The Relators charge the defendants presented a false and fraudulent claim for some portion of the $250,000 in flood insurance benefits paid to the McIntoshes for flood damage to their dwelling. The Relators acknowledge: 1) the McIntoshes' property sustained substantial flood damage; and 2) the flood damage was covered by a SFIP issued under the National Flood Insurance Program (NFIP). The Relators contend, and offer evidence, that the amount necessary to fully and fairly compensate the McIntoshes for this flood damage is far less than the policy limit of $250,000, the amount State Farm paid to settle this flood insurance claim. It is the difference between the flood damage the McIntoshes sustained and the policy limits payment State Farm made that the Relators charge is a false and fraudulent claim State Farm presented to the United States.

The allegations of the Amended Complaint go well beyond the two specific instances of misconduct specifically identified. The Relators charge State Farm and other defendants entered into a conspiracy to inflate or overstate the amount of flood damage that actually occurred (at the McIntosh property and other unspecified properties) and to pay those inflated amounts under the property owners' flood policies. This was done, the Relators contend, in order to offset or reduce the property owners' claims for wind damage by mischaracterizing part of the wind damage as flood damage. The United States reimburses State Farm for payments State Farm makes to settle flood policy claims, but the payments State Farm makes to settle wind damage claims under its homeowners policies are

paid by State Farm on its own account. While the Relators contend this reduction in its obligations under its homeowners policies for wind damage was the motivation behind State Farm's overpayment of flood claims, the essential question in this action is whether there was an overpayment of the McIntosh flood claim (and perhaps other claims similar to the McIntosh claim), not the question of how the overpayment affected State Farm's obligations under its homeowners policies.

Wind damage is a risk covered under State Farm homeowners policies and excluded from NFIP policies. Water damage, including storm surge flooding, is a risk covered under NFIP flood policies, and, with very limited exceptions, is excluded from State Farm homeowners policies. Thus the coverages provided by these two types of policies are, and are intended to be, mutually exclusive. The NFIP authorizes State Farm and other private insurers to sell SFIPs and to adjust claims under both SFIPs and homeowners policies.

Following Hurricane Katrina, the Relators publicly charged that State Farm (and others named as defendants in the Relators' original complaint) deliberately overpaid flood insurance claims in order to reduce its own exposure for wind damage. These public allegations have the potential to bring the provisions of 31 U.S.C. §3730(e)(4) into play. Assuming the requirements of 31 U.S.C. §3730(e)(4) apply in this action, unless at least one of the Relators is the "original source" of the allegations in their amended complaint, this Court does not have subject matter jurisdiction to hear this action. Because this is a jurisdictional issue, the Court has a duty to determine

whether either of the Relators qualifies as an "original source" within the meaning of the Act. The Act defines an "original source" as someone who has "direct and independent knowledge" of the allegations on which the FCA claim is premised.

Based on the testimony of Kerri Rigsby, I find she meets the statutory requirement of having "direct and independent knowledge" of the allegations concerning the McIntosh flood claim. Kerri Rigsby therefore qualifies as an original source of the information on which this FCA claim is based. However, I have heard no evidence, and I find no evidence in the record before me, to support the conclusion that Cori Rigsby qualifies as an "original source." It appears to me Cori Rigsby's knowledge concerning the McIntosh claim was gained through her conversations with Kerri Rigsby. In these circumstances, Cori Rigsby's knowledge is neither direct nor independent. *See Hays v. Hoffman*, 325 F.3d 982 (8th Cir. 2003).

The requirement that a relator be an "original source" only comes into play when the FCA action is based upon "public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative or [General] Accounting Office report, hearing, audit, or investigation, or from the news media." The manifest purpose of this limitation is to bar actions that might be brought by members of the general public who have no connection with or first-hand knowledge of the underlying misconduct and who only learn of the misconduct from public information.

My inquiry concerning Cori Rigsby's standing and qualification to act as a relator in this action is not jurisdictional. The Court's subject matter jurisdiction is established by Kerri Rigsby's having qualified as an "original source" under the assumption 31 U.S.C. §3730(e)(4) applies. But, in my view, where, as here, the Relators are the source of the public disclosure at issue, the FCA action is not "based upon" the information the Relators made public after the storm. Both Relators' access to the information supporting their allegations the McIntosh flood claim was deliberately overpaid (Kerri Rigsby's direct and independent knowledge and Cori Rigsby's indirect knowledge) came before they made these allegations public. In these circumstances, the "original source" requirement of 31 U.S.C. §3730(e)(4) may not apply at all. *U.S. ex rel Grubbs v. Kanneganti,* 565 F.3d 180, 194 (5th Cir. 2009) *(Kanneganti)*

Because this is not a jurisdictional issue, I am inclined to grant Cori Rigsby the benefit of the doubt in these circumstances. In my view. there is a genuine issue of material fact concerning Cori Rigsby's standing as a Relator. At this juncture, on a motion for summary judgment and a necessarily limited evidentiary record, I find Cori Rigsby's lack of direct and independent knowledge of the McIntosh claim does not disqualify her from acting as one of the Relators in this action.

Kerri Rigsby is an experienced insurance adjustor who had been working for Renfroe for approximately ten years at the time of Hurricane Katrina. She testified that within a few days after the storm, when State Farm was just beginning to adjust the losses under the SFIP policies and under its

homeowners policies, she attended a meeting convened by State Farm. Kerri Rigsby testified that during this meeting the person giving instructions for adjustors and their supervisors to follow told his audience Hurricane Katrina was a "water storm" and the adjustors should go out and "hit the limits" of flood insurance policies. Defendants deny these allegations.

Kerri Rigsby also testified State Farm representatives told her Haag had performed an analysis of the forces generated during Hurricane Katrina and this analysis determined the storm surge flooding preceded the highest storm winds by a considerable time, making it highly likely the insured properties had not been extensively damaged by the storm winds prior to their being damaged by storm surge flooding. Kerri Rigsby testified she accepted these instructions and assumed the Haag report was truthful and accurate, only to find out later this was not the case. The defendants also deny the substance of these allegations.

In mid-September, Kerri Rigsby accompanied the adjustor, Cody Perry (Perry), who first assessed the flood damage at the McIntosh property. She participated in the adjustment process by observing the adjustor's work, and she assisted in compiling notes of the room measurements the adjustor made as he moved through the first floor of the McIntosh home assessing the flood damage. The State Farm flood claim file for the McIntosh claim contained a detailed diagram of the McIntosh residence with measurements of the dimensions of all the first floor rooms. The flood file also contained a plethora of photographs of the damaged property.

By the time Cody Perry and Kerri Rigsby visited the McIntosh property, the McIntoshes were taking remedial measures to minimize their damages as is required under their State Farm homeowners policy. The McIntoshes had removed much of the damaged dry wall on the first floor and most of the debris from their home by the time Cody Perry and Kerri Rigsby arrived to inspect the property. The notes prepared during or just after the on-site inspection indicate Perry found evidence to support the conclusion the property was flooded to a depth of approximately five feet above the ground floor.

Based on the Perry's report and evaluation, State Farm paid the policy limits ($250,000 dwelling and $100,000 contents) to settle the McIntoshes flood damage claim and closed its file for the flood policy. Neither Perry, Kerri Rigsby, nor any other representative of State Farm or Renfroe made an item-by-item assessment of the damage to the McIntosh property. This type of item-by-item assessment is informally called a "stick built" estimate, and State Farm uses a software program called Exactimate to assist in calculating the damage when this type of evaluation is done. In evaluating the damage to the McIntosh property, State Farm relied upon a different software program called Exactotal. Exactotal does not yield a "stick built" or item-by-item estimate of damage. Rather, Exactotal makes an estimate of the damage when a property is a total loss (either actual or constructive). Based upon its Exactotal estimate, State Farm paid the limits of coverage under the McIntosh SFIP and closed its flood adjustment file for the McIntosh property. State Farm's wind damage file for the McIntosh property remained open. In due course State Farm submitted a claim for reimbursement to

the United States, and the United States honored that claim.

Kerri Rigsby testified that on or about October 12, 2005 (approximately two weeks after the inspection of the McIntosh property), Perry handed her an engineering report concerning the damage to the McIntosh property. The report was prepared by Brian Ford (Ford), an engineer employed by Forensic Analysis Engineering Corporation (Forensic), on October 10, 2005. Kerri Rigsby testified there was a Post-it note on the front page of the report indicating the report should not be put into the wind damage file, where engineering reports normally went, and the note also stated the report should not be discussed. Kerri Rigsby testified she had never before seen instructions similar to those she found on the Post-it note. She gathered from her conversation with Cody that he was asking her to take physical possession of the report and see it was handled properly.

Kerri Rigsby pulled the McIntosh wind damage file for the purpose of putting the Ford report into that file. Upon examining the contents of the wind damage file, she found a different engineering report, one prepared by John B. Kelly (Kelly), another Forensic employee. Kelly inspected the McIntosh property on October 18, 2005, and signed his report on October 20, 2005. In her experience it was unprecedented to have two engineering reports on a single property, and it was also very unusual to see an engineering report prepared just two days after the engineer, Kelly, inspected the property Kerri Rigsby testified it usually required weeks after an engineer's on-site inspection to prepare and finalize an engineering report. Kerri Rigsby also testified she was surprised to find only ten

days elapsed between the date the Ford report was signed and the date the Kelly report was submitted.

Once she had the two reports in hand, Kerri Rigsby testified she had a conversation with Alexis King (King), the State Farm supervisor in charge of the McIntosh claim. Kerri Rigsby testified King acknowledged she (Rigsby) was not supposed to have seen these two engineering reports. The two reports are very similar except for the conclusions drawn by the two engineers. Ford's report does not identify or discuss any substantial flood damage at the McIntosh property, and Ford reached the conclusion the damage to the property was caused by wind. Kelly's report agreed with Ford's conclusion there was considerable wind damage, but Kelly also reports he observed extensive damage from storm surge flooding.

Ultimately. these circumstances led Kerri Rigsby to conclude State Farm was wrongfully attempting to maximize its policyholders' flood damage claims (which are ultimately paid by the United States) in order to minimize the policyholders' wind damage claims (which are paid by State Farm). She also concluded the Haag report concerning the timing of the peak winds and the arrival of storm surge flooding was false and the report was done in furtherance of State Farm's plan to dishonestly identify wind damage as flood damage.

The defendants sharply contest the truth of Kerri Rigsby's allegations and of the conclusions she reached after seeing the two reports. The defendants' evidence established Katrina was a massive storm that devastated the Mississippi Gulf Coast and left many homes as 1) only foundations ("slabs"), 2) only pilings

("popsicle sticks"), or 3) empty shells ("cabanas"). The McIntosh dwelling did not come within any of these three categories. Although the McIntosh dwelling was extensively damaged by storm surge flooding, its exterior walls, roof, and interior walls were still standing.

State Farm's witness Michael Farrier (Farrier), who was above both Kerri Rigsby and King in the State Farm chain of command, testified all State Farm's flood insurance adjusting practices, including the adjusting practices Perry followed in evaluating the flood damage at the McIntosh property, were consistent with applicable Federal Emergency Management Agency (FEMA) guidelines and instructions. Apparently, not all of the FEMA guidelines for adjusting SFIP losses were reduced to writing. State Farm asserts FEMA gave its blanket approval for the payment of flood policy limits for catastrophically damaged covered properties, where only foundations, pilings, or empty shells remained.

According to Farrier, FEMA also granted State Farm (and other write-your-own carriers) the authority, on a case-by-case basis, to pay SFIP limits of coverage for homes that were catastrophically damaged yet did not fit within the three categories designated as total losses, i.e. when the damage was sufficient to render the property a constructive total loss. Farrier testified that– in the case of a constructive total loss– FEMA's guidelines allowed State Farm to evaluate the flood damage without making an item by item, "stick built" estimate of the flood damage. According to Farrier, this was precisely the situation of the McIntosh residence, i.e. while the McIntosh property did not come within the three

categories (slabs, pilings only, or empty shells) that were uniformly considered total losses, the flood damage to the McIntosh property was so extensive it justified State Farm's decision to consider the home a constructive total loss and pay the SFIP coverage limits without making a detailed estimate on an item-by-item basis.

State Farm asserts King, the individual who ordered the second engineering report on the McIntosh property, was fully justified in sending out a second engineer to evaluate the storm damage at the McIntosh property. King's deposition testimony was that the first report, the one Ford prepared, was inaccurate and incomplete in that it did not take note of the flood damage documented by Perry's inspection notes and the photographs in the flood file. King found the Ford report unacceptable, and she took steps to disqualify Ford's employer, Forensic, from further participation in adjusting State Farm claims. King relented in her initial decision to terminate State Farm's relationship with Forensic when Forensic agreed to send a different engineer (Kelly) to inspect the McIntosh property and evaluate the damage to the dwelling. Kelly testified his employer, Forensic, instructed him not to estimate the quantity of damage caused by wind or water, but only to determine the predominant cause of the damage to the McIntosh dwelling. Pursuant to these instructions, Kelly did not attempt to segregate and compare these different types of damage, and Kelly ventured no opinion on the dollar amount of flood damage he observed.

Based on the evidence I heard from the stand, particularly Kerri Rigsby's own testimony, it appears to me there is sufficient evidence to support the

conclusion that she does indeed possess direct and independent knowledge of the facts she has alleged in support of the allegations in the Amended Complaint. This evidence is also sufficient to create a genuine issue of material fact on the merits of the Relators' substantive allegations.

State Farm's motion [91] and Haag's motion [106] to dismiss the complaint on the grounds that neither of the Relators qualifies as an "original source" will be denied.

State Farm and Haag's Motions [98] [108] To Dismiss Under F.R.Civ.P. 12(b)(6) and 9(b)

Based on the evidence in the record, under the legal standard applicable to motions to dismiss under Rule 12(b)(6), it is clear to me the Relators have stated a claim upon which relief can be granted. I will turn, therefore, to consideration of these motions on the alternative grounds of failure to comply with the requirements of F.R.Civ.P. 9(b), which provides:

> (b) Fraud or Mistake; Conditions of Mind. In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally.

The heightened pleading standard of Rule 9(b) applies to actions brought under the FCA. *Kanneganti.* To satisfy the particularity requirement of F.R.Civ.P 9(b), the Relators' pleadings must show the "who, what, when, where, and how of the alleged fraud." *U.S.*

ex rel. Rafizadeh v. Continental Common, Inc., 553 F.3d 869 (5th Cir. 2008), quoting *United States ex rel. Doe v. Dow Chem. Co.*, 343 F.3d at 328 (internal quotation marks and citations omitted). *Kanneganti* expresses these requirements as a showing of the "time, place, contents, and identity" of the alleged fraud and its perpetrator.

The Relators have alleged a specific instance that would, if proven, establish an FCA violation. Relators allege this was just one instance of a broader and more pervasive conspiracy among the defendants to submit many other claims of this type. I am of the opinion the allegations concerning the McIntosh claim satisfy the heightened pleading standard of Rule 9(b), as that standard has been articulated in *Kanneganti*.

Kerri Rigsby testified King is the individual who ordered the second engineering report on the McIntosh property. King is a State Farm supervisor who worked closely with both State Farm adjustors and Renfroe engineers to investigate the merits of flood claims and homeowners claims after Hurricane Katrina. King freely acknowledges she ordered the second engineering report, and she asserts she was fully justified in doing so. In King's opinion the Ford engineering report was flawed in that it did not include the substantial flood damage documented in State Farm's closed flood insurance file. Relators ascribe a different motive behind King's decision to order a second report. This creates a genuine issue of material fact that cannot be resolved summarily

Kerri Rigsby also testified there was a meeting at which she asserts these adjustors were instructed to "hit the limits" on flood policies, and she identified a

report prepared by Haag concerning the order in which the storm forces affected the insured properties. She testified she later learned the substance of the Haag report was false. The preparation of this report and the instructions to the adjustors to "hit the limits" of flood policies and to adjust claims under the assumption the Haag report was accurate are alleged to be part of a conspiracy intended to facilitate the presentation of inflated flood damage claims to the United States. Kerri Rigsby testified Perry adjusted the McIntosh flood claim in accordance with State Farm's instruction to "hit the limits," and she approved Perry's report under the assumption the Haag report was truthful and accurate. State Farm's denial of these allegations leaves a genuine issue of material fact that must be resolved by further proceedings.

With respect to the McIntosh claim, it is my conclusion the Realtors' pleadings are sufficient to inform the defendants of the charges the Relators are making and give the defendants sufficient information to mount their defense to the Relators' allegations. Because this action will be, at least at this juncture, limited to the McIntosh claim, for reasons I will discuss below. I find the Amended Complaint, when considered with the extensive deposition testimony taken from Kerri Rigsby and with the documentation now on file, has stated the Relators' FCA claim with sufficient particularity to satisfy the requirements of F.R.Civ.P 9(b).

State Farm's Motion for Summary Judgment [96] on the Relators' Claim for Retaliatory Discharge from Their Employment

31 U.S.C. §3730(h) of the FCA, sometimes known as the "whistleblower" provision, is intended to prevent adverse job actions against employees who assist in or bring actions under the FCA. This subsection of the act provides:

> (h) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of any lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.

The Relators acknowledge their employment contract was not with State Farm but with Renfroe, the party with whom the Relators recently reached a comprehensive settlement agreement. I have been unable to find any FCA case in which any party other than the whistleblower's direct employer has been found liable under 31 U.S.C. §3730(h). There is no evidence in this record to indicate State Farm had the authority to terminate the Relators' employment status. Accordingly, I will grant State Farm's motion for summary judgment on this portion of the Relators' claim.

Scope of Further Proceedings

Rockwell, 549 U.S. at 476, indicates any relator in an FCA case is limited to pursuing claims of which he has first hand knowledge, and each claim must be considered on its own merits:

> Section 3730(e)(4) [of the FCA] does not permit jurisdiction in gross just because a relator is an original source with respect to some claim. We, along with every court to have addressed the question, conclude that §3730(e)(4) does not permit such claim smuggling.

In their original complaint, the Relators alleged a vast conspiracy among several insurers to accomplish the same ends they allege State Farm sought to bring about. The amended complaint was also very broad, alleging misconduct by firms and individuals who have since been voluntarily dismissed. State Farm is the only defendant now charged with having presented a false claim, and the allegations of

the Amended Complaint identify only one specific instance of misconduct: the McIntosh claim.

The McIntosh claim is the only instance of State Farm's having submitted an allegedly false claim of which the Relator Kerri Rigsby has first hand knowledge, i.e. direct and independent knowledge sufficient to support the Court's subject matter jurisdiction, in light of the decision of the United States not to intervene. Yet the Relators' complaint alleges McIntosh was just one among many similar false claims State Farm and the other defendants conspired to submit. In order to protect the interests of both parties, I must strike a balance between the Relators' interest in identifying these other allegedly false claims and the defendants' interest in preventing a far ranging and expensive discovery process that relates only to claims that are not, for now, specifically identified.

Accordingly, I will limit the presentation of evidence in this action to facts relevant to the McIntosh claim. In light of the extensive discovery that has already been conducted with respect to this claim, I do not believe there will be much in the way of additional preparation necessary to bring this case to trial. I will therefore refer this action to United States Magistrate Judge Walker to establish a pre-trial schedule so any additional discovery can be completed before the end of this calendar year. In the event the Relators prevail on the merits of their allegations concerning the McIntosh claim, I will then consider whether additional discovery and further proceedings are warranted.

In the meanwhile, so I may know the outer limits of the potential claims involved in this action, I will require State Farm to submit, *in camera*, a list containing the name of the insured, the address of the property, and the amount of flood insurance paid, for all SFIP claims that meet the following criteria:

A) The insured property did not fall within any of the three categories of storm damage for which FEMA approved payment of SFIP limits, i.e. insured dwellings that were not left as slabs, pilings, or empty shells; and

B) For which SFIP limits were paid on the grounds the property was a constructive total loss; and

C) For which no "stick built" or Exactimate estimation of the flood damage was made before the SFIP limits were paid.

An appropriate order will be entered.

DECIDED, this 10th day of August, 2009.

s/ L.T. Senter, Jr.
L.T. SENTER, JR.
SENIOR JUDGE

Order of the United States District Court for the Southern District of Mississippi Southern Division (August 10, 2009)

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF MISSISSIPPI,
SOUTHERN DIVISION

UNITED STATES OF AMERICA EX REL. CORI RIGSBY and KERRI RIGSBY

RELATORS

V.

STATE FARM INSURANCE COMPANY, ET AL.

DEFENDANTS

CIVIL ACTION NO. 1:06CV0433 LTS-RHW

ORDER

In accordance with the Memorandum Opinion I have this day signed, it is hereby

ORDERED

1. That the Relators' motion [206] for clarification of the Order [1173] excluding their testimony in civil actions against State Farm Fire and Casualty Company is **GRANTED**. To the extent the Relators have relevant knowledge, they will be permitted to testify in all further proceedings in this action;

2. That State Farm Fire and Casualty Company's motion for summary judgment [96] on the Relators' claim for wrongful discharge from their employment is **GRANTED**;

3. That State Farm Fire and Casualty Company's motion [91] and Haag Engineering Company's motion [106] to dismiss this action for lack of subject matter jurisdiction, or, in the alternative for summary judgment, are **DENIED** on the grounds that Relator Kerri Rigsby is an original source of the information that supports the allegations of the Amended Complaint; and

4. That State Farm Fire Insurance Company's motion [98] and Haag Engineering Company's motion [108] to dismiss this action under F.R.Civ.P 12(b)(6) and 9(b) are **DENIED**; and

5. That further proceedings in this action shall be limited to the specific allegations of the Amended Complaint, i.e. to the allegation the payment of the limits of SFIP coverage on the McIntosh property and the presentment of a claim for reimbursement to the United States of America constitutes a violation of the FCA;

6. That State Farm Fire and Casualty Company shall submit, *in camera*, a list containing the name of the insured, the address of the insured property, and the amount of flood insurance paid, for all SFIP claims that meet all three of the following criteria:

   A) The insured property did not fall within any of the three categories of storm damage for which FEMA approved payment of SFIP limits, i.e. insured dwellings that were not left as slabs, pilings, or empty shells; and

   B) For which SFIP limits were paid on the grounds the property was a constructive total loss; and

C) For which no "stick built or Exactimate estimation of the flood damage was made before the SFIP limits were paid;

7. That the defendants' unopposed motion [340] to allow the parties to file their post-hearing briefs into the record is **GRANTED**.

SO ORDERED this 10th day of August, 2009.

s/ L.T. Senter, Jr.
L.T SENTER, JR.
SENIOR JUDGE

Order Correcting Error of Fact Concerning Prior Representation of the Relators in Memorandum Opinion [871] of the United States District Court for the Southern District of Mississippi Southern Division (April 4, 2011)

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DIVISION

UNITED STATES OF AMERICA *EX REL.* CORI RIGSBY and KERRI RIGSBY

RELATORS

V.

STATE FARM INSURANCE COMPANY, *ET AL.*

DEFENDANTS

CIVIL ACTION NO. 1:06CV433 LTS-RHW

ORDER CORRECTING ERROR OF FACT CONCERNING PRIOR REPRESENTATION OF THE RELATORS IN MEMORANDUM OPINION [871]

It has come to my attention that my Memorandum Opinion Concerning State Farm Fire and Casualty Company's Motion To Dismiss For Relators' Violation Of Seal Order, Docket Number 871, contains a factual error stated at the top of page 11 and repeated near the bottom of page 13. The opinion states that the Relators have previously been represented by the Scruggs Katrina Group, and this is not the case. Relators were previously represented by The Scruggs Law Firm, LLC, and not by the Scruggs

Katrina Group. By this order, I am amending this Memorandum Opinion to correct this error.

Accordingly, it is

ORDERED

That the Memorandum Opinion, Docket Number 871, is hereby amended in the following particulars:

1. The words and punctuation mark in line three of page eleven, ", and the participants in the Scruggs Katrina Group, a joint venture involving a number of Mississippi attorneys" are hereby deleted, and the word "and" is hereby inserted in the parenthetical appearing there, so that the corrected passage shall read, "During this period, the Relators and the attorneys who were then representing them in private litigation against State Farm (Richard Scruggs and representatives of the Scruggs Law Firm) made many public statements accusing State Farm of misconduct in its claims adjusting practices."

2. The words in the first sentence of the fourth full paragraph of page 113, "and the SKG" are hereby deleted so that the corrected passage shall read, "It is abundantly clear that Richard Scruggs used formidable public relations resources, including use of The Rendon Group, in an effort to control the public perception of the issue at the heart of this *qui tam* action, i.e. whether State Farm deliberately mischaracterized wind damage as flood damage in assessing claims under the insurance policies it was adjusting."

SO ORDERED this 4th day of April, 2011.

s/ L.T. Senter, Jr.
L.T. SENTER, JR.
SENIOR JUDGE

Memorandum Opinion and Order Granting Defendant State Farm Fire and Casualty Company's Motion to Certify the Court's Memorandum Opinion [871] and Order [872] for Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b) of the United States District Court for the Southern District of Mississippi Southern Division (September 30, 2011)

IN THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DIVISION

UNITED STATES OF AMERICA *ex rel.* CORI RIGSBY and KERRI RIGSBY

RELATORS/COUNTER-DEFENDANTS

v.

STATE FARM FIRE AND CASUALTY CO.

DEFENDANT/COUNTER-PLAINTIFF

and

HAAG ENGINEERING CO.

DEFENDANT

CIVIL ACTION NO.1:06CV433-HSO-RHW

MEMORANDUM OPINION AND ORDER GRANTING DEFENDANT STATE FARM FIRE AND CASUALTY COMPANY'S MOTION TO CERTIFY THE COURT'S MEMORANDUM OPINION [871] AND ORDER [872] FOR INTERLOCUTORY APPEAL PURSUANT TO 28 U.S.C. § 1292(b)

BEFORE THE COURT is the Motion [878] to Certify the Court's Memorandum Opinion [871] and Order [872] for Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b), filed by Defendant State Farm Fire and Casualty Co. ["State Farm"] on February 7, 2011. Relators have filed a Response [882], and State Farm has filed a Rebuttal [886]. After consideration of the Motion, the pleadings, the record in this case, and the relevant legal authorities, and for the reasons stated below. the Court finds that the present Motion [878] is well taken and should be granted.

Title 28 of the United States Code section 1292(b) provides that

> [w]hen a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals which would have jurisdiction of an appeal of such action may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: *Provided, however*, That application for an appeal hereunder shall not stay proceedings in the district court unless the district judge

> or the Court of Appeals or a judge thereof shall so order.

28 U.S.C. § 1292(b) (emphasis in original).

At issue here is State Farm's contention that this case should be dismissed based upon Relators' violations of the seal requirement of the False Claims Act. 31 U.S.C. § 3730(b)(2).

By previous Order dated January 24, 2011, the Court determined that there were three instances in which attorneys representing Relators disclosed the existence of this False Claims Act action and its underlying factual allegations. *See* Mem. Op. [871], at pp. 11–12. In this Order, Senior United States District Judge L.T. Senter, Jr., determined that because there was no case directly on point from the United States Court of Appeals for the Fifth Circuit, the Court should look to the decisions of other federal circuit courts of appeals. *Id.* at p. 8. The Sixth Circuit has held that violation of the seal requirements imposed on *qui tam* plaintiffs under the False Claims Act bars such plaintiffs from asserting *qui tam* status, requiring dismissal of their case. *United States ex rel. Summers v. LHC Group, Inc.*, 623 F.3d 287 (6th Cir. 2010). Conversely. the Ninth Circuit has held that a violation of the Act's seal provisions does not *per se* require dismissal of a *qui tam* complaint, and has adopted a three-factor test for evaluating whether dismissal is warranted. *United States ex rel. Lujan v. Hughes Aircraft Co.*, 67 F.3d 242, 245 (9th Cir. 1995). Had the Court adopted the Sixth Circuit's reasoning, this would have been dispositive of all claims raised by Relators in this litigation. After acknowledging the split

between these two circuit courts of appeal, Judge Senter followed the Ninth Circuit's approach, weighed the factors presented, and denied State Farm's Motion to Dismiss Relators' case based upon their violations of the seal requirements.

State Farm seeks to take an interlocutory appeal of this Order, arguing that Fifth Circuit and Supreme Court precedent involving an analogous issue under a different *qui tam* statute indicate that the Fifth Circuit would follow an approach similar to the Sixth Circuit and dismiss this case for Relators' non-compliance with the FCA's statutory seal provisions. State Farm's Mem. [879], at pp. 5–6 (citing *United States ex rel. Texas Portland Cement Co. v. McCord*, 233 U.S. 157 (1911); *United States ex rel. Texas Portland Cement Co. v. McCord*, 218 F. 991 (5th Cir. 1914)). Having considered the record as a whole, the Court is of the opinion that the Memorandum Opinion [871] and Order [872] denying Defendant State Farm Fire and Casualty Company's Motion to Dismiss [739] involve a controlling question of law as to which there is substantial ground for difference of opinion, and that an immediate appeal from the Order comports with the requirements of 28 U.S.C. § 1292(b).

IT IS, THEREFORE, ORDERED AND ADJUDGED that, Defendant State Farm Fire and Casualty Company's Motion [878] to Certify the Court's Memorandum Opinion [871] and Order [872] for Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b), filed February 7, 2011, should be and hereby is **GRANTED**.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Defendant State Farm Fire and Casualty Company may seek leave to appeal as provided by 28 U.S.C. § 1292(b) and Federal Rule of Appellate Procedure 5, and that the Court's January 24, 2011, Memorandum Opinion [871] and Order [872], are hereby amended to include the following mandatory language pursuant to 28 U.S.C. § 1292(b):

> This Order involves controlling questions of law as to which there is substantial ground for differences of opinion. Immediate appeal from this Order may materially advance the ultimate termination of this litigation.
>
> It is further ordered that the Memorandum Opinion and Order as hereby amended, shall be deemed entered as of this date for purposes of computing the time for filing a petition for permission to appeal with the United States Court of Appeal for the Fifth Circuit.

IT IS, FURTHER, ORDERED AND ADJUDGED that, the above-captioned Civil Action is hereby **STAYED** pending either the issuance of a decision by the United States Court of Appeals for the Fifth Circuit resolving the interlocutory appeal, or the denial of the application for interlocutory appeal.

IT IS, FURTHER, ORDERED AND ADJUDGED that, upon the issuance of a decision by the United States Court of Appeals for the Fifth

Circuit resolving the interlocutory appeal, or the denial of the application for interlocutory appeal, any party may move to lift the stay.

IT IS, FURTHER, ORDERED AND ADJUDGED that, all remaining pending Motions are hereby **DENIED WITHOUT PREJUDICE**, with leave to reassert upon the lifting of the stay of this case.

SO ORDERED this the 30th day of September, 2011.

s/ Halil Suleyman Ozerden
HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE

Motion for Leave to Appeal from an Interlocutory Order of the United States Court of Appeals for the Fifth Circuit (November 10, 2011)

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 11-90042

UNITED STATES OF AMERICA ex rel. CORI RIGSBY; KERRI RIGSBY,

Plaintiffs - Respondents

v.

STATE FARM FIRE AND CASUALTY COMPANY

Defendant - Petitioner

Motion for Leave to Appeal from an Interlocutory Order

Before KING, JOLLY, and GRAVES, Circuit Judges.

PER CURIAM:

IT IS ORDERED that leave to appeal from the interlocutory order of the United States District Court of the Southern District of Mississippi, Biloxi, entered on January 24, 2011, is **denied**.

Transcript of Status Conference/Motions of the United States District Court for the Southern District of Mississippi Southern Division (January 12, 2011)

**UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF MISSISSIPPI,
SOUTHERN DIVISION**

UNITED STATES OF AMERICA ex rel. CORI RIGSBY and KERRI RIGSBY

RELATORS/COUNTER-DEFENDANTS

v.

STATE FARM MUTUAL INSURANCE COMPANY

DEFENDANT/COUNTER-PLAINTIFF

CIVIL ACTION NO. 1:06cv433-LTS-RHW

TRANSCRIPT OF STATUS CONFERENCE/MOTIONS

**BEFORE HONORABLE L.T. SENTER, JR.
UNITED STATES DISTRICT JUDGE**

**JANUARY 12, 2011
GULFPORT, MISSISSIPPI**

COURT REPORTER:

KATI M. VOGT, RMR, CRR
2012 15TH STREET, SUITE 403
GULFPORT, MISSISSIPPI 39501
(228) 563-1751

[28] MR. ROBINSON: You asked when did State Farm learn that this suit was, in fact, filed. Well, State Farm, of course, heard Congressman Taylor's public statements, which were made improperly, I would submit, while this was still under seal, so I can't say that we didn't have suspicion, as many people who heard those statements had. As far as actual confirmation that it was pending, it was upon the date we were served. And we believe -- and I don't want to swear to you that this is the exact date, but we think it was August 6th of 2007, which was right after the unsealing on August 1, 2007 So up until that date, there were suspicions that Congressman Taylor may know something, but no actual confirmation.

***

[38-39] MR. MATTEIS: It was probably the highest profile litigation in the country at the time. It's not abnormal that they had a PR firm. I don't believe that communications between a lawyer and a PR firm are much different than a lawyer and any other type of consultant.

[39] Now. if things were disclosed subsequent to that, that's a different issue. But the fact that the -- the added facts in this motion about communications between Scruggs and his PR firm I don't think qualitatively change the nature of the alleged allegations.

And in terms of another thing that's looked at by the Courts that do the balancing test, which is the majority, is whether there was any bad faith on the part of the relators. And in this case, you know, we

pointed out that of all the 33 or however many violations State Farm points to, the relators seem to have only been involved in six. They -- most of the violations that are discussed involve Scruggs' law firm rather than the relators. We think that that all sort of adds to the balancing test going in our favor.

Amendment to Memorandum Opinion and Order of June 15, 2007 of the United States District Court for the Northern District of Alabama Southern Division (August 13, 2007)

IN THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION

E.A. RENFROE & COMPANY, INC.,

Plaintiff,

v.

CORI RIGSBY, et al.,

Defendants.

CIVIL ACTION NO. 06-AR-1752-S

AMENDMENT TO MEMORANDUM OPINION AND ORDER OF JUNE 15, 2007

It has now been brought to the attention of the court by Richard F. Scruggs and The Scruggs Law Firm, P.A. ("Scruggs") that Scruggs as attorney for defendants, Cori Rigsby and Kerri Rigsby. as *relators* ("Rigsbys"), filed suit on April 28, 2006, under the False Claims Act on behalf of the United States of America in the United States District Court for the Southern District of Mississippi against State Farm Mutual Insurance Company and others, case no. 1:06CV433, as to which the seal was not lifted until August 1, 2007. It now appears that the so-called "data dump" that occurred during the weekend of June 3-4, 2006, occurred after the said *qui tam* case had been filed under seal, but that the evidence obtained from

the "data dump" was not delivered by Scruggs to the United States Attorney until December 8, 2006, the date upon which the preliminary injunction was entered.

Not being sure of the exact relationship that existed between the Rigsbys, on the one hand, and Scruggs, on the other, either at the time of the "data dump" or when the injunction was issued, the court hereby AMENDS its memorandum opinion and order of June 15, 2007, insofar as they purport to exonerate the Rigsbys from criminal contempt. The question remains open. Further exploration into the subject will be required before a final determination of whether or not probable cause for criminal contempt by the Rigsbys exists. Meanwhile, the prosecution of the charge of contempt against Scruggs shall proceed.

DONE this 13th day of August, 2007

William M. Acker
WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE

Memorandum Opinion of the United States District Court for the Northern District of Alabama Southern Division (June 5, 2008)

IN THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION

E.A. RENFROE & COMPANY, INC.,

Plaintiff,

v.

CORI RIGSBY, et al.,

Defendants.

CIVIL ACTION NO. 06-AR-1752-S
08-mc-0908-S
CONSOLIDATED

MEMORANDUM OPINION

One of the many motions before the court in this exceptional case is a renewed motion by plaintiff, E.A. Renfroe & Company, Inc. ("Renfroe") to find defendants, Cori Rigsby and Kerri Rigsby, ("the Rigsbys"), and non-parties, Richard Scruggs and The Scruggs Law Firm, P.A. ("Scruggs"), in civil contempt for the violation of this court's mandatory preliminary injunction entered on December 8, 2006, and to impose upon them a monetary sanction for the purpose of compensating or reimbursing Renfroe for the expense it incurred in obtaining compliance with the injunction. The court expressly awaited an appellate review of its preliminary injunction before coming to grips with this aspect of the civil contempt question.

Rightly or wrongly, the court has already found no reason to impose coercive civil contempt sanctions. At the time it ruled on that question it believed, and on that belief found, that the enjoined parties, after some foot dragging and resistence, had finally complied. Again, rightly or wrongly, the court exonerated the Rigsbys from any charge of criminal contempt, but appointed attorneys on behalf of the United States to follow up on the court's finding of probable cause to believe that Scruggs had committed a criminal contempt of court. It was obvious then, and it is obvious now, that "beyond a reasonable doubt" is the burden required to prove a charge of criminal contempt in a jury trial, whereas the burden of proving civil contempt is by a preponderance, and is not a jury matter.

There is no purpose to be served in repeating everything this court has previously said relevant to the issue now being addressed, that is, except to the small extent that the court has changed its mind. As long as a case is pending before a court, the court has the right *sua sponte* to alter its thinking, that is, unless its earlier findings have become the law-of-the-case by virtue of an interim appellate ruling that locks in the earlier findings. This is not such a case.

The Rigsbys have filed a motion for summary judgment belatedly alleging lack of subject-matter jurisdiction and asserting that this case, in which Renfroe relied upon this court's diversity jurisdiction under 28 U.S.C. § 1332 by claiming that more than $75,000 is in controversy, no longer is supported by the requisite amount in controversy. When subject-matter jurisdiction supposedly disappeared is a bit fuzzy. If it

occurred after Scruggs and the Rigsbys ignored the injunction, the Rigsbys have no jurisdictional defense to Renfroe's motion for sanctions, but if the alleged absence of $75,000 in controversy occurred before the injunction was issued or before any alleged non-compliance, a threshold question must be decided before the court considers the motion for civil contempt. The court will deny the Rigsbys' Rule 56 jurisdictional motion for the reasons presented in Renfroe's brief filed in reply to it. There is still $75,000 in controversy. The court will not write an opinion on the subject, but will accompany its denial order with a certification pursuant to 28 U.S.C. § 1292(b) so that the Rigsbys can attempt an appeal on the jurisdictional question if they wish to do so.

Scruggs reiterates his contention that this court lacks jurisdiction over him, both for the purpose of imposing the injunction upon him in the first place and for the purpose of enforcing the injunction as against him. Scruggs argues that he cannot be held in civil contempt because he not only was not subject to the injunction, just as he contended in *United States v. Scruggs*, the separate criminal case, but that he did not violate the injunction as he also contended in *United States v. Scruggs*. Scruggs's contention that this court lacks subject-matter and *in personam* jurisdiction over him has already been addressed by this court, and this court will not repeat what it said. The court finds no reason to alter its finding that it had the power to impose an injunction that, by its terms, reached Scruggs (and persons similarly situated) and had jurisdiction to enforce that injunction. It is a truism that Scruggs could not be in contempt of a court that had no jurisdiction over him.

Scruggs has not only preserved his earlier jurisdictional argument, but now interposes as an alleged absolute defense, akin to *res judicata*, the result in *United States v. Scruggs* in which Honorable Roger Vinson, sitting on this court by special designation, found that Scruggs was not subject to this court's injunction and, if subject to it, did not violate it. Scruggs made the same arguments to Judge Vinson that he made earlier to this court and that he reiterates now. Scruggs contends that Judge Vinson's dismissal of the criminal contempt charge acts as a bar to any finding of civil contempt by this court.

The criminal contempt case was a case that was entirely separate from this case. Judge Vinson's opinion has no adjudicative effect in this case and is not binding on this court. If this court had anticipated Judge Vinson's reasoning and had agreed with it, this court would not have said what it said on June 15, 2007 Because Judge Vinson's opinion is not published, and is not part of the record in this case except by judicial notice, a copy of Judge Vinson's opinion is attached hereto as Appendix "A" Attached as Appendix "B" is a copy of the motion filed by the United States for an extension of the time within which to appeal from Judge Vinson's ruling. That motion was denied. This court agrees with much of what the motion of the United States said on the merits of the criminal case, but agrees that Judge Vinson appropriately denied it.

This court respectfully rejects Scruggs's and Judge Vinson's arguments. If their suggestions were followed in this case, they would end the inquiry. This court will articulate its disagreement with Judge

Vinson only to the extent that the disagreement is pertinent to the consideration of the civil contempt question. Did a civil contempt by Scruggs and/or by the Rigsbys occur and, if it did, what should be the compensatory sanction?

Judge Vinson was certainly correct when he began his opinion in *United States v. Scruggs* by calling it a "most unusual case" The criminal action against Scruggs was the first and only case in the United States in which a judge sitting on the same court as a judge who had earlier initiated a charge of criminal contempt against a lawyer, dismissed that charge on motion of the accused lawyer without conducting an evidentiary hearing.

Judge Vinson is a fine, capable and conscientious judge. This court knows the seriousness with which he undertook consideration of *United States v. Scruggs.* This court's respectful disagreement with Judge Vinson would be obvious without a discussion of it, because, as said, if this court had agreed with Judge Vinson, it would never have suggested a criminal contempt proceeding against Scruggs in the first place.

This court's first and most obvious area of disagreement with Judge Vinson arises from Judge Vinson's second ground for dismissing the criminal charge, namely, Scruggs's alleged right to claim protection from the reach of the injunction in the language that provided a right of access by "law enforcement officials" to materials stolen by the Rigsbys. In this case, Scruggs's "law enforcement official" of choice was Attorney General Hood, who was

Scruggs's friend, associate and close confidant. If this avenue of escape was available to Scruggs, it was, by necessary inference, available also to the Rigsbys. Applying Judge Vinson's reasoning, if the Rigsbys had had possession of the illicitly acquired materials on December 8, 2006, the date of the injunction, they could, with impunity, have deposited the materials with General Hood, like Scruggs did, in reliance upon the supposed "law enforcement official" exception. On that date, the Rigsbys still had some stolen materials in their possession. They were not as clever as Scruggs was. Instead of hiding the materials with General Hood, they quickly endeavored, if not with complete dedication or success, to comply with the clear mandate of the injunction. They had no problem understanding it. Scruggs looked for a loophole, and, according to Judge Vinson, found it, that is, with the help of his friend, a so-called "law enforcement official"

Judge Vinson gave Scruggs the benefit of what, this court believes, was a manufactured doubt about the meaning of the injunction. Under the totality of the bizarre circumstances, this court shares with the general public its perception that what Scruggs did was too cute by half.

The operative words of this court's preliminary injunction of December 8, 2006, are contained in its first paragraph, as follows:

> In accordance with the above findings of fact and conclusions of law, and in compliance with Rule 65(d), F. R. Civ. P., the application of plaintiff, E.A. Renfroe

> & Company. Inc., for a preliminary injunction is GRANTED, and defendants, Cori Rigsby Moran and Kerri Rigsby, *and their agents, servants, employees, attorneys, and other persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise* (**with the express exception of law enforcement officials**) are hereby MANDATORILY ENJOINED to deliver forthwith to counsel for plaintiff all documents, whether originals or copies, of each document and tangible thing, in any form or medium, that either of defendants or anyone acting in conjunction with or at the request or instruction of either of them, downloaded, copied took or transferred from the premises, files, records or systems of Renfroe or of any of its clients, including, but not limited to State Farm Insurance Company and which refer or relate to any insurance claims involving damages caused or alleged to have been caused by Hurricane Katrina in the State of Mississippi.

(italics added; other emphasis in original).

The succeeding paragraph in the December 8 order in no way altered or subtracted from the above-quoted language. The exception for "law enforcement officials" only relieved from the obligation to return documents any "law enforcement officials" who already were in possession of materials that had been stolen by

the Rigsbys and who had been "in active concert or participation" with the Rigsbys. Only such "law enforcement officials" were beyond the reach of the injunction. This court does not know how it could have been any plainer.

In the subsequent order of June 15, 2007, this court found probable cause to believe that Scruggs had committed criminal contempt. This court there used the following language, with which Judge Vinson obviously disagreed:

> Scruggs argues that he did not violate the injunction because the injunction, as he interprets it, contains an express carve-out for law enforcement. To read the preliminary injunction to permit Scruggs to deliver the documents to Hood rather than to counsel for Renfroe is such a strained construction and so contrary to the injunction's clear terms as to lack any credibility whatsoever. **It unduly blurs the distinction between the injunction's first and second paragraphs. It deems the words "disclose," "use," and "misappropriate" in the second paragraph to be synonymous with the word "deliver", even though "deliver" is the word that the court carefully chose for the first paragraph.**

(emphasis added).

Greg Hawley, the attorney who represented the Rigsbys at the time the injunction was issued and at the time the order to show cause was issued (but who understandably no longer represents them), was being paid by Scruggs, although at the time this court did not know it. Hawley had no trouble understanding this court's injunctive order. As an officer of the court, as well as an accomplished advocate for his named clients, he promptly asked Scruggs to honor the injunction by returning the stolen materials, and he instructed the Rigsbys to deliver to Renfroe's counsel all materials in their actual possession. There may be a difference between "ask" and "demand" Hawley never suggested to anybody that stolen materials could be hidden from Renfroe's counsel by the device of delivering them to some "law enforcement official", much less to a so-called "law enforcement official" who already possessed the materials and who was a Scruggs confederate. Employing Judge Vinson's reasoning, any "law enforcement official" who was willing to take delivery of the stolen materials, even though having no need for them and, instead, for the avowed purpose of avoiding their delivery to Renfroe's counsel, could, with impunity. frustrate compliance with the injunction. If Judge Vinson was correct, General Hood's belated return of his second copy of the materials was a mistake. According to Judge Vinson, Scruggs had no obligation whatsoever to honor the injunction or to accede to the requests from the Rigsbys, although the Rigsbys were his "clients", his "employees", his "consultants", his "witnesses", and his "joint-venturers" Scruggs and the Rigsbys were as "joined-at-the-hip" as any set of Siamese twins.

Last but not least, this court disagrees with Judge Vinson's gratuitous conclusion that General Hood, under these circumstances, was a "law enforcement official" In *United States v. Scruggs*, a jury could easily have found beyond a reasonable doubt (as this court now finds by a preponderance of the evidence) that, in context, General Hood was not a *bona fide* "law enforcement official", but rather was a co-conspirator with, and an aider and abetter of, Scruggs. If Judge Vinson was correct in his reading of this court's injunction, this court should never have tried to force Scruggs to deliver possession of the materials stolen by his joint-venturers. The Rigsbys earlier pled successfully that they did not have possession of the materials and thus had complied. However, they undoubtedly knew that General Hood had two copies. Did General Hood need his extra copy in order to fulfill his "law enforcement" duties? The question answers itself.

Judge Vinson did not dispute the territorial reach of the injunction of December 8, 2006. Instead, he found a lack of jurisdiction over Scruggs on the ground that Scruggs was not the attorney-of-record for the Rigsbys in the *Renfroe* case. Judge Vinson never conducted an evidentiary hearing to explore the dimensions of the relationship between Scruggs and the Rigsbys. At page 7 of this court's opinion of June 15, 2007, this court found on clear evidence:

> There is no dispute about the fact that Scruggs was an attorney for the Rigsbys in relation to the subject of the documents when the injunction was issued.

Judge Vinson did not dispute this finding based on any evidence beyond what this court had received and considered. Relying on the fact that Scruggs was not the attorney-of-record, Judge Vinson ignored this court's findings that Scruggs was an "agent" of the Rigsbys, and was a "person in active concert or participation" with the Rigsbys. Without conducting an evidentiary hearing, Judge Vinson concluded that Scruggs was not in active concert with the Rigsbys at the time he became aware of the injunction and at the time he initiated the contact with General Hood that resulted in the parking of the materials with General Hood after General Hood's requested request.

If Judge Vinson was correct, and if the Rigsbys had been in possession of the materials when the injunction was issued, and instead of delivering them to Renfroe's counsel, had delivered them to John Doe, a non-lawyer co-conspirator who happened to be an off duty policeman with a badge (a "law enforcement official"), with the sole purpose of hiding the materials from Renfroe, John Doe would not have been subject to the injunction, and nobody could have been held in contempt. After all, John Doe would not have been an attorney-of-record, and he would be just as *bona fide* a "law enforcement official" as General Hood was. If Judge Vinson was correct, both this court and the Eleventh Circuit have wasted a lot of time. As a practical matter, and as a matter of good sense, if Scruggs was not subject to the injunction, nobody was.

To reiterate, there was more than one relationship between Scruggs and the Rigsbys. Judge Vinson was, of course, correct in saying that Scruggs was not technically the Rigsbys' attorney-of-record in

the *Renfroe* case, but Scruggs was paying for the Rigsbys' lawyers in the *Renfroe* case, and was in effective control. When Judge Vinson concluded that Scruggs was not "legally identified" with the Rigsbys, Judge Vinson was employing a term of legal art, as well as making a finding of fact without evidence. This court again wonders how a person could be any more "identified with" the Rigsbys than Scruggs was. Scruggs was the *alter ego* of the Rigsbys, and the Rigsbys were the *alter egos* of Scruggs. They could not have been any more closely "identified" without obtaining a marriage license. They were in bed together.

In February 2006, if not before, Scruggs had established his confidential relationship with the Rigsbys. In April of 2006, Scruggs filed the *qui tam* suit for the Rigsbys. By that time the Rigsbys were not only Scruggs's clients, but were his "witnesses", both in the *qui tam* and in private lawsuits against State Farm. Judge Vinson's statement that the Rigsbys did not become Scruggs's "consultants" until July 2006, is consistent with what this court earlier believed, but both this court and Judge Vinson were wrong as to the date when the employment relationship between Scruggs and the Rigsbys came into being. Subsequent events have proven otherwise. Scruggs and the Rigsbys had an identity of interest from February 2006 until today. The Rigsbys were effectively employed by Scruggs in February, 2006. In February 2006, there was a mutual commitment to a joint-venture in which Scruggs was as much the Rigsbys agent as the Rigsbys were his agents. Without an evidentiary hearing, Judge Vinson concluded that Scruggs was not "in active concert with" the Rigsbys, was not "legally

identified with" them, and was not their "aider and abetter" This court apologizes for not using the term "aider and abetter" in its opinion of June 15, 2007. It was the only descriptive term it left out.

Rejecting the legitimacy of the means employed by Scruggs to escape the criminal contempt charge, and disagreeing with the Rigsbys' challenge to subject-matter jurisdiction, this court now turns to Renfroe's renewed request for a compensatory award for civil contempt against the Rigsbys and Scruggs.

In defense of Renfroe's motion, the Rigsbys say at page 10 of their response:

> Cori Rigsby did not know that lawyers outside the Scruggs Katrina Group had copies of the documents.

Ostensibly, Cori was speaking for Kerri, as well as for herself. Or was she? Both of the Rigsbys presumably knew in April 2006, when they became the plaintiffs in the False Claims Act case, that they were represented by lawyers who were not members of the Scruggs Katrina Group. They also presumably knew that their lawyers, including those not in the Scruggs Katrina Group, had possession of the evidence those lawyers delivered to the United States Attorney when the suit was filed, as required by the False Claims Act.

At page 12 of their response, the Rigsbys assert:

> [T]he Court and the parties now know that **the Rigsbys obtained the documents that are the subject of the**

> **injunction to provide as evidence to the Department of Justice as required by the False Claims Act and to use as evidence in support of a False Claims Act claim** that was filed in federal court in Mississippi in April 2006.

(emphasis added) . Although the Rigsbys acknowledge that the preliminary injunction was upheld on appeal to the Eleventh Circuit, which is a court, like this one, that could have been advised of the existence of the *qui tam* action, but was not, the Rigsbys now attack the injunction as somehow precluded by the pendency of the False Claim Act case. Do they really argue that after filing the *qui tam* case, the Rigsbys were authorized by the False Claim Act and obligated to the taxpayers to steal Renfroe's records two months after the *qui tam* case was filed? There has already been a deluge of litigation in Mississippi dealing with the propriety of a lawyer using his clients to steal documents from their mutual opponent. The above-quoted language from the Rigsbys' response suggests something at which the Department of Justice has never hinted, namely, that it encouraged the Rigsbys to conduct their clandestine "data dump" in June 2006. What would have been the reaction of the United States Attorney if he had known that the evidence delivered to him by the *relators'* lawyers sometime after the data dump had been stolen? Thus far, the stolen evidence has not induced the United States to intervene in the *qui tam* case.

As this court stated in its opinion of June 15, 2007, the reason for not imposing coercive sanctions on

the Rigsbys and on Scruggs was the court's understanding that all stolen papers had, to the extent practicable, been returned. There was, therefore, no reason to impose coercive sanctions. It is now clear to the court that both the Rigsbys and Scruggs, as aiders and abetters of each other, did not comply immediately and fully, and therefore proximately caused expenses to be incurred by Renfroe in order to obtain whatever degree of compliance that has been obtained.

It turns out that, in addition to the documents that were returned, the Rigsbys copied State Farm documents using a list of Scruggs's clients, and that these documents were segregated by them in a plastic boot box. They were never mentioned by the Rigsbys until recently, and they have never been returned, although copies may be randomly scattered among the papers returned to Renfroe's counsel and now stored under lock-and-key in the court's chambers. The Rigsbys admit that they did not return the boot box documents, but say they do not have the box and do not know where it is. This court is tempted to deduce a location for the boot box documents, but will proceed on the assumption, at this late stage, that the boot box and its contents will never be found. The court agrees with Renfroe that the boot box was clearly within the purview of the injunction. Its non-return and disappearance is not only a disappointment to Renfroe, but it is a disappointment to the court.

Scruggs and the Rigsbys intentionally made Renfroe and its lawyers work hard to obtain compliance with this court's injunction. Without the dogged determination of Renfroe's lawyers, no materials stolen by the Rigsbys would have ever been

recovered. The purpose of compensatory sanctions for such conduct could not be realized without a granting of Renfroe's motion.

This court analogizes these circumstances to a tort claim against joint tortfeasors, in which the degree of fault as between the defendants is different, but makes no difference. There is no proration of damages as between tortfeasors. In the case before the court, Scruggs may have been more contumacious than the Rigsbys, but they were in it together. The fact that the Rigsbys may have asked Scruggs, their lawyer, their employer, and their mentor, to comply does not excuse their non-compliance insofar as a joint violation and compensatory sanctions are concerned. In considering criminal contempt, there is an easily recognized distinction between Scruggs and the Rigsbys, and even if there weren't such a distinction, this court could not initiate a criminal contempt charge against the Rigsbys after Scruggs has been fully exonerated of criminal contempt. But, a civil contempt charge against joint venturers, one of whom may be more contumacious than the other, is a different matter.

This court feels less reluctance to impose sanctions on the Rigsbys than it otherwise would feel because Scruggs is obligated as indemnitor to pay all monetary damages assessed in this case against the Rigsbys. When and if Scruggs pays the joint obligation that the court will hereinafter impose, the joint obligation will be discharged.

Renfroe seeks $94,219.75 in attorneys fees and expenses that it says were occasioned by its efforts to enforce compliance with the injunction. From

examining the papers attached to Renfroe's motion, the court concludes that not every item of expense and not every lawyer-hour spent, is fairly attributable to Renfroe's efforts to obtain compliance. The court readily understands the difficulty in keeping time records that later have to be compartmentalized into non-compensable items and compensable items. Rather than to refer the winnowing process to a magistrate judge, and because the court can use its personal experience in analyzing the Rigsbys' and Scruggs's criticisms of Renfroe's request, the court finds that a reasonable number of lawyer-hours multiplied by a reasonable hourly rate, results in a figure of $65,000, which, by separate order, will be awarded against both the Rigsbys and Scruggs as a compensatory sanction.

DONE this 5th day of June, 2008.

William M. Acker
WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE

Memorandum Opinion of the United States District Court for the Northern District of Alabama Southern Division (October 29, 2008)

IN THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION

E.A. RENFROE & COMPANY, INC.,

Plaintiff,

v.

CORI RIGSBY, et al.,

Defendants.

CIVIL ACTION NO. 06-AR-1752-S

MEMORANDUM OPINION

After an unsuccessful mediation attempt, the court again has under submission several long-pending motions in the above-entitled case. As now configured, the complaint of plaintiff, E.A. Renfroe & Company, Inc. ("Renfroe"), has two aspects. First, Renfroe claims that defendants, Cori Rigsby and Kerri Rigsby ("Rigsbys"), breached their employment agreement. Second, Renfroe claims that the Rigsbys violated the Alabama Trade Secrets Act. Both of these claims arise from the Rigsbys's accessing and copying documents of Renfroe's client, State Farm Insurance Company, and sharing the documents with Richard Scruggs, a lawyer who, in turn, shared them with the Attorney General of Mississippi and employed them in broad-ranging litigation in which Renfroe was and is implicated.

Renfroe moves for partial summary judgment on the question of the Rigsbys's liability for breach-of-contract. The Rigsbys have a counter-motion contending that the undisputed facts demonstrate that there was no breach-of-contract. Renfroe also has a motion for partial summary judgment that the Rigsbys are liable for a violation of the Alabama Trade Secrets Act. The Rigsbys have a counter-motion contending that there is no factual basis for such a claim. As it must under Rule 56 analysis, the court will limit itself to the undisputed facts relevant to these motions.

Breach-of-Contract Claim

When, at the beginning of the case, the court granted a preliminary injunction mandatorily enjoining the Rigsbys to return the stolen documents, the court necessarily found that there was, in fact, a binding contract between Renfroe and the Rigsbys, that the contract contained a confidentiality agreement, and that there was a substantial likelihood that Renfroe would prevail on its claim that the confidentiality agreement had been breached. There was then, and there is now, no dispute about the meaning of the operative words in the employment agreement. The import of those words not only was addressed by this court when the preliminary injunction was issued, but the same words were analyzed by the Eleventh Circuit in its opinion affirming this court's grant of preliminary injunction. The Eleventh Circuit readily found that the contract was valid and enforceable and that the Rigsbys's proposed excuses for breaching it were ineffectual. After pointing out the importance of the confidentiality provision, and of the Rigsbys's written

acknowledgment that Renfroe would suffer "immediate and irreparable damage and loss" upon any breach of that provision, the Eleventh Circuit held:

> **Having concluded that Renfroe is substantially likely to prevail on its breach-of-contract claim**, we turn briefly [etc.]

E.A. Renfroe & Co., Inc. v. Moran, 249 Fed. Appx. 88, 92 (11th Cir. 2007) (emphasis supplied).

The simple and straightforward facts relevant to the breach-of-contract claim are (1) that there was a binding contract between the parties; (2) that the contract included a provision that expressly precluded the Rigsbys from sharing Renfroe's confidential materials with outsiders; and (3) that the Rigsbys, as Renfroe's employees, flagrantly violated the agreement by stealing and sharing confidential documents. These facts are as clear now as they were when both this court and the Eleventh Circuit found a substantial likelihood of success on the breach-of-contract claim. This court now substitutes for the words "substantial likelihood of success" the word "**success**"

The Rigsbys have now added facts that they contend preclude any claim of breach-of-conduct. In their motion for summary judgment on the breach-of-contract claim, they argue:

> (1) Since the Court entered a preliminary injunction removing the claims documents from the possession of the Rigsbys and their lawyers, a federal

court in Mississippi has unsealed the Rigsbys' *qui tam* complaint asserting a False Claims Act claim against State Farm, Renfroe, and others and describing the claims documents that would be the subject of the permanent injunction sought by Renfroe. The Rigsbys had a right under federal law to take and use the claims documents in connection with the *qui tam* case, and they have a legal right to have and use those documents in that case now and in the future. Federal public policy reflected in the False Claims Act, by virtue of the Supremacy Clause, preempts state contract law that would hinder an employee providing evidence of fraud on the United States to the Department of Justice (DOJ) or from using that evidence to prosecute a claim as a *qui tam* relator on behalf of the United States. In short, Renfroe cannot invoke state law as a basis for stripping *qui tam* relators of their proof.

(2) Once the *qui tam* complaint was filed in April 2006, disclosure to the public and to State Farm policyholders of the documents and the fraud they prove was inevitable; indeed, it has occurred. The documents are not "confidential information," a term defined in the employment agreement.

> They are "public" or "in the public domain," and no injunction can be effective to remove the documents from public view or otherwise to make them confidential.
>
> (3) The contracts on which Renfroe sues do not forbid the Rigsbys from disclosing the existence of fraud or crime with respect to the handling of claims on State Farm policies. In any event, under widely-recognized public policy, the contracts cannot be so interpreted or applied.

This court has already made clear its belief that the pendency of the *qui tam* case in which the Rigsbys are *relators*, and which was filed in April 2006 without Renfroe as a defendant, did not authorize the *relators*, while employed by Renfroe, to steal State Farm documents from Renfroe, whether the documents were thereafter used to enhance their already pending *qui tam* case, or for litigation in which State Farm insureds were plaintiffs represented by *relators'* employer, Scruggs, or for both purposes. This court has been cited no authority for the proposition that *qui tam relators* can, while blowing the whistle, conduct a second-story job without subjecting themselves to possible criminal sanctions and/or to civil liability for conversion or for breach of a confidentiality agreement. Being a self-appointed representative of the United States does not commission the *relator* to conduct clandestine or illegal operations in furtherance of a pending *qui tam* action. When this theft occurred, the United States had not intervened in the *qui tam* case,

and, as far as the record reflects, still has not intervened. In other words, these *relators* assumed considerable risk when they unilaterally decided that their contractual obligation to their employer gave way to a higher obligation to expose fraud and, inadvertently, to get handsomely paid for it under the sharing provisions of the False Claims Act. If the United States had formally deputized the Rigsbys to steal documents, an entirely different problem would be presented.

Although Renfroe has withdrawn any claim for compensatory damages for loss of good will, and has foregone a claim for lost income, it has not given up its claim for the attorneys' fees and expenses it incurred in the litigation spawned by the Rigsbys "data dump" weekend. Any recovery of Renfroe's said legal expenditures will, of course, be reduced by the $65,000 already paid by the Rigsbys to compensate Renfroe's attorneys for obtaining compliance with the preliminary injunction.

Whether Renfroe can recover from the Rigsbys their ill-gotten gains in the form of the substantial consulting fees received from Scruggs need not be determined today. At this juncture, the only question is: "Was there a breach-of-contract that potentially caused Renfroe compensable damage?" The answer to this question is "Yes", meaning that Renfroe is entitled to summary judgment on the simple question of liability by the Rigsbys for breach-of-contract. The Rigsbys's counter-motion, making the same arguments they made to this court and to the Eleventh Circuit in defense of the breach-of-contract claim (except for their

additional *qui tam* argument), is due to be denied. Renfroe will be put to the proof on damages.

The Alabama Trade Secrets Act Claim

There are cross-motions for partial summary judgment on Renfroe's claim that the Rigsbys violated the Alabama Trade Secrets Act ("ATSA"), Ala. Code §§ 8-27-1, *et seq.*, by disclosing documents illegally accessed from the computers of State Farm, the customer of Renfroe. Renfroe's ATSA claim is plagued with problems. The court will address them not in the order of their importance to the court's decision.

First, the court is not convinced that ATSA was designed to cover a fact situation, or a document theft, like this one. The subject confidentiality agreement created an obligation to maintain secrecy with respect to confidential materials, but were State Farm's documents Renfroe's "trade secrets" as that term is used in the Alabama statute? The means and methods by which State Farm and its contractors went about adjusting claims might be characterized as "trade secrets", that is, if they are any different from the methods and procedures used in the insurance adjusting industry generally. Renfroe has not satisfied the court by undisputed evidence that the methods and procedures it employed in serving State Farm and/or its other casualty insurance clients, were so unique as to meet the definition "trade secret"

Second, the Rigsbys assert that Renfroe lacks standing to assert a claim under ATSA because Renfroe did not own the stolen documents and, therefore, did not own any "trade secrets" contained

within them. Only a very few of the documents issued pertain to Renfroe, as distinct from State Farm. Less than 25 discrete documents out of the thousands of stolen documents are fee agreements. They are over ten years old and are not currently in effect. Renfroe argues that it was the bailee of the documents and, in that capacity, has standing. Whether actual ownership is required to confer standing to make an ATSA claim does not have a clear answer, either in Alabama or Mississippi, the two potentially relevant jurisdictions. If standing were the dispositive question, and if Alabama law applies, this would be a good question to certify to the Supreme Court of Alabama under Rule 18. This court has serious doubts about Renfroe's standing under the ATSA.

The Rigsbys next argue that ATSA did not govern their conduct because what they did undisputedly took place in Mississippi, and that ATSA does not apply extra-territorially. Renfroe argues that the employment contract contained a choice-of-law provision designating Alabama law as the controlling law, but the Rigsbys respond by pointing out that choice-of-law provisions do not apply to statutory torts and that the choice-of-law provision does not apply to the conduct complained of. In Alabama, the choice-of-law for tort claims is *lex loci delicti*. *Middleton v. Caterpillar*, 979 So. 2d 53, 58 (Ala. 2007) (citing *Fitts v. Minnesota Mining Mfg. Co.*, 581 So. 2d 819, 820 (Ala. 1991)). The substantive law applicable to a tort claim is the law of the place where the tortious conduct occurred. *Id.* Here, the wrongful conduct took place entirely in Mississippi. There is extensive case law holding that for the tort of misappropriation of trade secrets, the tort occurs where the misappropriation

occurs. *See Manuel v. Convergys Corp.*, 430 F.3d 1132, 1140 (11th Cir. 2005) (citing *Salsbury Labs., Inc. v. Merieux Labs., Inc.*, 735 F. Supp. 1555, 1568 (M.D. Ga. 1989)); *Bates v. Cook, Inc.*, 615 F. Supp. 662, 675-76 (M.D. Fla. 1984) (citing a string of cases from other jurisdictions supporting this interpretation of the *lex loci delicti* principle in misappropriation cases). In this case, the *loci delicti* is Mississippi. Although there is no case law interpreting Alabama law that precisely reaches this conclusion, courts interpreting Alabama law have generally concluded that the injury occurs where the conduct giving rise to the right to sue occurs. In this case, that would be Mississippi.

The court finds that there is no extra-territorial reach for ATSA, and that the mere fact that the Rigsbys were employed by a company with its principal place of business in Alabama cannot lead to the conclusion that the Rigsbys's conduct in Mississippi is governed by an Alabama law that may or may not proscribe their conduct.

The ATSA claim is largely redundant to the breach-of-contract claim. The only reason for Renfroe to have invoked ATSA is that Ala. Code, § 8-27-4, makes it possible to recover not only actual damages but disgorgement, attorneys' fees and exemplary damages if the ATSA violation is willful and malicious.

For these separate and several reasons, the Rigsbys's motion for partial summary judgment on the ATSA claim will be granted, and Renfroe's counter-motion will be denied.

Objections and Motions to Strike Evidentiary Materials

Because the evidentiary materials to which plaintiff and defendants have objected and have moved to strike have not been used by the court in reaching its conclusion under Rule 56, they are moot, and will be so designated by orders separately entered. The same is true of the entire discovery dispute transferred from Illinois, all of which relates to the ATSA claim.

Renfroe's Motion to Reconsider the Granting of the Rigsbys's Motion for a Jury Trial

When this court granted the Rigsbys's belated motion for trial by jury, it overlooked the provision in the employment agreement by which the Rigsbys waived their right to jury trial on all issues arising out of the employment relationship. Although this court remains enamored of the Seventh Amendment, if this particular employment agreement is enforceable in other respects, it must be enforced in all respects. Renfroe's motion will be granted, and the case will proceed as a bench trial.

Separate orders consistent with this opinion will be entered.

DONE this 29th day of October, 2008.

William M. Acker
WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE

JUL 29 2016

No. 15-513

IN THE

Supreme Court of the United States

STATE FARM FIRE AND CASUALTY COMPANY,

Petitioner,

v.

UNITED STATES, EX REL. CORI RIGSBY, ET AL.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

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THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

FILED
JUL - 5 2006

UNITED STATES OF AMERICA, ex rel.
Cori Rigsby, et al.,

Plaintiff,

v

STATE FARM INS. CO., et al.

Defendants.

Civil Action No. 1:06cv433WJG

FILED UNDER SEAL

UNITED STATES' UNOPPOSED EX PARTE APPLICATION
FOR A SIX-MONTH EXTENSION OF TIME
TO CONSIDER ELECTION TO INTERVENE

For the reasons set forth in the accompanying Memorandum of Points and Authorities, the United States of America respectfully requests an ex parte order under the False Claims Act, as amended, 31 U.S.C. § 3730(b)(3), for an extension until January 3, 2007 of its period in which to notify the Court of its decision regarding intervention in the above-captioned False Claims Act qui tam action. The intervention deadline is currently July 3, 2006, based on service of process having been completed as to the United States Attorney General as of May 3, 2006. This is the first extension request that the United States has made in this case. The United States further requests that the Complaint and other related filings remain under seal during this time. Relators, through counsel, have informed the Government that they concur in this request.

As set forth in the accompanying Memorandum of Points and Authorities, the United States has been investigating this matter diligently, but needs more time to complete its investigation. An extension of time will enable the Government to make an informed decision as to whether to take over this action pursuant to 31 U.S.C. § 3730(b)(4).

Accordingly, the Government asks that it be given until January 3, 2007, to complete its investigation before it decides whether to intervene in this case and during which time the complaint and other related pleadings will remain under seal.

Respectfully submitted,

Dunn O. Lampton
United States Attorney
Southern District of Mississippi

Dated: July 3, 2006

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FILED
JUL - 5 2006

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA, ex rel.
CORI RIGSBY, et al.

Plaintiff,

v

STATE FARM INS. CO., et al.

Defendants.

Civil Action No. 1:06cv433WJG

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MEMORANDUM IN SUPPORT OF THE UNITED STATES' UNOPPOSED EX PARTE APPLICATION FOR A SIX-MONTH EXTENSION OF TIME TO CONSIDER ELECTION TO INTERVENE

The United States of America submits this memorandum in support of its unopposed ex parte application for an order under the False Claims Act, as amended, 31 U.S.C. §3730(b)(3), for an extension of time until January 3, 2007, in which to notify this Court of its decision whether to intervene in the above-captioned False Claims Act qui tam action. The intervention deadline is currently July 3, 2006, based on service of process having been completed as to the United States Attorney General as of May 3, 2006. This is the first extension request that the United States has made in this case. The United States further requests that the Complaint and other related filings remain under seal during this time. The relators have notified the United States, through counsel, that they concur in this request.

I. Statement of Facts

Relators filed this action in April 2006, under the qui tam provisions of the False Claims Act ("FCA"), 31 U.S.C. § 3730. Relator alleged that the Defendants, who consist of insurance companies authorized by the Federal Emergency Management Agency to write federal flood insurance policies as well as claims-processing and engineering consultants to those insurance companies, defrauded the Government by deliberately mis-classifying damages from Hurricane Katrina. According to Relators, the Defendants falsely classified wind-related storm damages as water-related storm damages, so that the financial responsibility for those damages would be

shifted away from private homeowners' policies and onto federal flood insurance policies instead.

The Government has begun a diligent investigation of this case since then. Interviews with the Relators are in the process of being scheduled. Counsel for the United States has been reviewing documents provided by the Relators and working to determine what other relevant materials should be sought, as well as what other witnesses may need to be interviewed.

II. Points and Authorities

The qui tam provisions of the False Claims Act provide in pertinent part that:

> (2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.
>
> (3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2).

31 U.S.C. §§ 3730(b)(2) and (3) (emphasis added).

The Senate Judiciary Committee explained that:

> Subsection (b)(3) of Section 3730 establishes that the Government may petition the Court for extensions of both the 60-day evaluatory period and the time during which the complaint remains under seal. Extensions will be granted ... on a showing of 'good cause'.

S. Rep. No. 99-345, 99th Cong., 2d Sess. 25, reprinted in 1986 U.S.C.C.A.N. 5266, 5289. As indicated in the Senate Committee on the Judiciary's Report, "good cause" is shown when due to the complexity of the allegations, the Government has been prevented from adequately reviewing the complaint and making a determination on intervention. Id. at 5290.

The United States respectfully submits that it has good cause for an extension in this case. Relator's allegations are wide-ranging, and the Government needs more time to evaluate those

contentions fully. The Government likely will need to collect and evaluate additional detailed evidence regarding the homes and insurance policies in question. Also, the Government likely will have to identify and interview additional witnesses.

The United States has also moved this Court for an order keeping the complaint and material evidence under seal during the requested extension. The Judiciary Committee's report identifies the sound reasons for keeping qui tam complaints under seal while the Government pursues its requisite investigation, evaluates the evidence and determines whether or not to intervene:

> Keeping the qui tam complaint under seal for the initial 60-day time period is intended to allow the Government an adequate opportunity to fully evaluate the private enforcement suit and determine both if that suit involves matters the Government is already investigating and whether it is in the Government's interest to intervene and take over the civil action. . . .
>
> * * *
>
> The initial 60-day sealing of the allegations has the same effect as if the qui tam relator had brought his information to the Government and notified the Government of his intent to sue. The Government would need an opportunity to study and evaluate the information in either situation. . .

1986 U.S.C.C.A.N. 5266, 5289.

The same reasoning supports the continuing need to keep the complaint in this action under seal pending the Government's completion of the additional investigation and analysis necessary in this case.

CONCLUSION

For all of the above reasons, the United States respectfully requests that its motion for a six-month extension of time, to and including January 3, 2007, during which the Complaint and other documents filed in this matter remain under seal, and during which the United States may evaluate its decision whether to intervene in the action, be granted. The relators concur in this request.

Respectfully submitted,

Dunn O. Lampton
United States Attorney
Southern District of Mississippi

Dated: July 3, 2006

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CERTIFICATE OF SERVICE AND NO SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing United States' Ex Parte Unopposed Application for a Six-month Extension of Time to Consider Election to Intervene has been sent via electronic service, to the party noted below, on June 30, 2006. The Memorandum in support of that application and proposed Order have not been served upon the party noted below, because that pleading refers to details of the Government's investigation of this case.

Counsel for Relators

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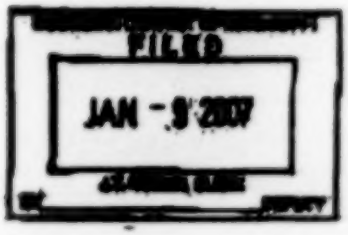
IN THE UNITED STATES DISTRICT COURT OF MISSISSIPPI
SOUTHERN DISTRICT



UNITED STATES OF AMERICA EX REL. CORI RIGSBY, AND KERRI RIGSBY, Relators,	
vs	CASE NO. 1:06cv433-WJG-JMR
STATE FARM INSURANCE COMPANY, et al.	To Be Filed In Camera And Under Seal Pursuant To 31 Usc § 3731

EXPEDITED UNOPPOSED MOTION FOR PARTIAL LIFTING OF THE SEAL

COMES NOW Relators, Kerri and Cori Rigsby, by and through counsel, and move this Honorable Court for expedited consideration of their motion for a partial lifting of the seal in this matter, and state to the Court as follows.

1. This is a case filed under 31 USC § 3729, et seq., commonly known as the False Claims Act.

2. Since the case was originally filed in April, 2006, it has been continuously under seal pursuant to 31 USC § 3730.

3. The United States Government is diligently investigating the issues of civil false claims which involve passing off homeowner's claims for wind damage on the Federal Flood Insurance Administrator.

4. In addition, the Mississippi Attorney General has launched an investigation and the Relators are cooperating with the Mississippi Attorney General.

5. The Relators were employed by E. A. Renfroe, a company that leases adjustors to large insurance firms like defendant State Farm.

6. They were initially dispatched to the Hurricane Katrina effort and were part of the Gulfport, MS, office of State Farm from September, 2005 through July, 2006.

7 During their employment they became aware of a pattern and practice of unlawful conduct by the purchaser of their services, State Farm.

8. At some point in July relators disclosed that they had taken their concerns to federal law enforcement officials.

9. State Farm discharged them from their duties, and, they were ultimately discharged from employment by Renfroe.

10. Prior to discharge, relators had copied approximately 15,000 pages of documents that were turned over to counsel.

11. Relators have placed these documents in the hands of the U.S. Attorney for Mississippi, the Department of Justice, and the Attorney General of the State of Mississippi. They were a part of the evidentiary disclosure required under 31 USC § 3730.

12. Following their discharge E. A. Renfroe, mounted a civil lawsuit in the United States District Court for the Northern District of Alabama against relators. That civil lawsuit seeks damages and a permanent injunction requiring them to return

State Farm's documents to E. A. Renfroe. That action is E. A. Renfroe v. Kerri Rigsby, et al, Case 2:06-cv-01752-WMA.

13. The trial court, Judge Acker, has granted a temporary injunction.

14. Defendants have moved to cite the Relators for civil contempt in Alabama because their counsel turned over documents to the Mississippi Attorney General before the injunction went into effect.

15. The trial court in Alabama has set a motion docket hearing on Friday, January 12, 2007.

16. It is anticipated that the moving party, E. A. Renfroe, will seek to call or cross-examine the relators, and may ask questions that are directed at determining whether the relators have filed a False Claims Act case. In addition, civil depositions of the Relators are set for January 15, 16, and 17th in Gulfport MS, and questions may arise there, as well.

17 The existence of this case, the conversations the Relators have had with the US Attorney, their attorneys, and the Department of Justice (as well as with FEMA, the FBI, and other investigative bodies) are all privileged from disclosure in the Alabama case as a result of the joint prosecution privilege and this Court's seal in this case.

18. If asked any question that would potentially reveal the existence of this sealed case, counsel would be required to object, and to disclose the existence of the False Claims Act case in camera to Judge William M. Acker, Jr., the federal judge

in the Alabama case, in order to ensure that relators were not cited for contempt for obeying this court's seal.

19. Counsel for relators and counsel for the government have conferred, and the Department of Justice does not oppose a partial lifting of the seal for the express purpose of disclosing the existence of the sealed False Claims Act case only to Judge William M. Acker, Jr., and any other judicial or court officer who is or may be assigned to the case. Relators neither seek nor desire authority to disclose the existence of the case to any other person or entity.

20. Ideally, the existence of the False Claims Act case would be disclosed to Judge Acker prior to the hearing, in camera, by counsel acting ex parte.

21. In order to disclose the existence of the case to the Alabama federal court, Relator's seek leave of court for a partial lifting of the seal for the express purpose of disclosing the action to Judge Acker, and because of the deadline associated with the pending hearing, respectfully request an order from this court be issued as soon as possible.

WHEREFORE, for good cause shown, Relators request that the trial court issue its order partially unsealing the case so as to permit the Relators to disclose the existence of the case to Judge William M. Acker, Jr., and any other judicial or court officer who is or may be assigned to the case.

Respectfully submitted,

THE SCRUGGS LAW FIRM

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ATTORNEYS FOR RELATORS

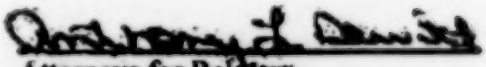
CERTIFICATE OF SERVICE

The undersigned certifies that on this 9th day of January, 2007, a copy of the foregoing pleading was served on the individuals below by first class mail, certified, return receipt requested to Dunn O. Lampton, US Attorney's Office, 188 E. Capitol St., Suite 500, Jackson, MS, 39201, and by placing the same in the United States Mail, first class postage affixed, certified, return receipt requested, and addressed to Alberto Gonzales, Esq., at the address below:

Dunn O. Lampton, Esq.
United States Attorney
188 E. Capitol Street Ste 500
Jackson, MS 39201

Hon. Alberto Gonzales, Esq.

Attorney General of the United States
5111 Main Justice Building
10th & Constitution Ave. N.W.
Washington, DC 20210



Attorneys for Re[illegible]

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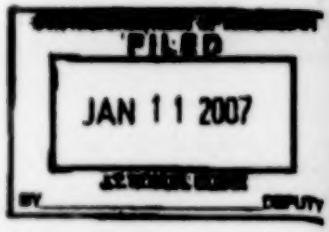
THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI



UNITED STATES OF AMERICA, ex rel. Cori Rigsby, et al.,	
Plaintiff,	Civil No 1:06cv433WJG-JMR
v.	FILED UNDER SEAL
STATE FARM INS. CO., et al.	
Defendants.	

UNITED STATES' UNOPPOSED EX PARTE APPLICATION *NUNC PRO TUNC*
FOR A SECOND SIX-MONTH EXTENSION OF TIME
TO CONSIDER ELECTION TO INTERVENE

For the reasons set forth in the accompanying Memorandum of Points and Authorities, the United States of America respectfully requests an ex parte order under the False Claims Act, as amended, 31 U.S.C. § 3730(b)(3), for an extension *nunc pro tunc* from January 3, 2007 to July 3, 2007, of its period in which to notify the Court of its decision regarding intervention in the above-captioned False Claims Act qui tam action. The intervention deadline is currently January 3, 2007.[1] This is the second extension request that the United States has made in this case. The United States further requests that the Complaint and other related filings remain under seal during this time. Relators, through counsel, have informed the Government that they concur in this request.

As set forth in the accompanying Memorandum of Points and Authorities, the United States has been investigating this matter diligently, but needs more time to complete its investigation. An extension of time will enable the Government to make an informed decision as to whether to take over this action pursuant to 31 U.S.C. § 3730(b)(4).

---

[1] Counsel for the United States apologizes to the Court for the untimeliness of this filing. The undersigned Trial Attorney assigned by the Department of Justice inadvertently recorded the extension deadline as January 15, 2007, due to confusion with another case.

Accordingly, the Government asks that it be given until July 3, 2007, to complete its investigation before it decides whether to intervene in this case and during which time the complaint and other related pleadings will remain under seal.

Respectfully submitted,

Dunn O. Lampton
United States Attorney
Southern District of Mississippi

Dated: January 10, 2007

FELICIA ADAMS
Assistant United States Attorney
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Jackson, MS 39201
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MICHAEL F. HERTZ
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I HEREBY CERTIFY that a true and correct copy of the foregoing United States' Ex Parte Unopposed Application *Nunc Pro Tunc* for a Second Six-month Extension of Time to Consider Election to Intervene has been sent via United States Mail, to the party noted below, on January 10, 2007. The Memorandum in support of that application and proposed Order have not been served upon the party noted below, because that pleading refers to details of the Government's investigation of this case.

Counsel for Relators

Sidney A. Backstrom, Esq.
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Post Office Box 1136
Oxford, MS 38655

FELICIA ADAMS
Assistant United States Attorney

FILED
JAN 22 2007
BY _____ DEPUTY

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA, ex rel.
CORI RIGSBY, et al.

Plaintiff,

v

STATE FARM INS. CO., et al.

Defendants.

Civil No. 1:06cv433LTS-RHW

FILED UNDER SEAL

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Relators filed this action in April 2006, under the qui tam provisions of the False Claims Act ("FCA"), 31 U.S.C. § 3730. Relator alleged that the Defendants, who consist of insurance companies authorized by the Federal Emergency Management Agency to write federal flood insurance policies as well as claims-processing and engineering consultants to those insurance companies, defrauded the Government by deliberately mis-classifying damages from Hurricane

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Katrina. According to Relators, the Defendants falsely classified wind-related storm damages as water-related storm damages, so that the financial responsibility for those damages would be shifted away from private homeowners' policies and onto federal flood insurance policies instead.

The Government has undertaken diligent investigation of this case since then. Interviews with the Relators and other witnesses have taken place. Counsel for the United States has been reviewing documents provided by the Relators and working to determine what other relevant materials should be sought, as well as what other witnesses may need to be interviewed. Counsel for the United States has also conducted site visits in affected areas, and has conferred with other agencies and other offices of the Department of Justice in order to coordinate investigative efforts in several ways.

II. Points and Authorities

The qui tam provisions of the False Claims Act provide in pertinent part that:

> (2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.
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31 U.S.C. §§ 3730(b)(2) and (3) (emphasis added).

The Senate Judiciary Committee explained that:

> Subsection (b)(3) of Section 3730 establishes that the Government may petition the Court for extensions of both the 60-day evaluatory period and the time during which the complaint remains under seal. Extensions will be granted ... on a showing of 'good cause'

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The United States respectfully submits that it has good cause for an extension in this case. Relator's allegations are wide-ranging, and the Government needs more time to evaluate those contentions fully. The Government has collected a great deal of information, but it likely will need to collect and analyze additional evidence regarding the homes and insurance policies in question, both within Mississippi and in other areas affected by Katrina. The Government has identified and interviewed additional witnesses, but more such interviews likely will be needed.

The United States has also moved this Court for an order keeping the complaint and material evidence under seal during the requested extension. The Judiciary Committee's report identifies the sound reasons for keeping qui tam complaints under seal while the Government pursues its requisite investigation, evaluates the evidence and determines whether or not to intervene:

> Keeping the qui tam complaint under seal for the initial 60-day time period is intended to allow the Government an adequate opportunity to fully evaluate the private enforcement suit and determine both if that suit involves matters the Government is already investigating and whether it is in the Government's interest to intervene and take over the civil action.
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1986 U.S.C.C.A.N. 5266, 5289.

The same reasoning supports the continuing need to keep the complaint in this action under seal pending the Government's completion of the additional investigation and analysis necessary in this case.

CONCLUSION

For all of the above reasons, the United States respectfully requests that its motion for a six-month extension of time, to and including July 3, 2007. during which the Complaint and other documents filed in this matter remain under seal, and during which the United States may evaluate its decision whether to intervene in the action, be granted. The relators concur in this request.

Respectfully submitted,

Dunn O. Lampton
United States Attorney
Southern District of Mississippi

Dated: January 10, 2007

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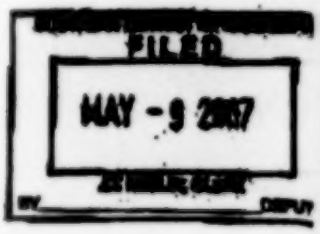

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA, ex rel. Cori Rigsby, et al.,	
Plaintiff,	Civil No. 1:06cv433WJG-JMR
v.	
STATE FARM INS. CO., et al.	**FILED UNDER SEAL AND IN CAMERA**
Defendants.	

UNITED STATES' EX PARTE APPLICATION FOR A STAY
OF CIVIL PROCEEDINGS

The United States of America respectfully petitions this Court for an ex parte order granting a stay of the above-captioned civil proceedings until the completion of a criminal investigation by the United States Attorney's Office for the Southern District of Mississippi. The United States seeks a stay of the civil proceedings in this case to avoid prejudice to an ongoing criminal investigation that is directly related to the allegations in the instant qui tam action. The United States also requests that the Complaint and any documents filed in the above-captioned case remain under seal for the duration of the requested stay. If a stay is granted, the United States will advise the Court and relators every four months as to whether the stay continues to be justified. Relators have represented, through counsel, that so long as the continuing need for a stay is reassessed every four months, they do not object to this application for a stay.

As set forth in the accompanying Memorandum of Points and Authorities, the United States is unable to conduct a thorough investigation into the matters alleged in the qui tam Complaint because of a pending related criminal investigation. Accordingly, the Government requests a stay of all civil proceedings until the criminal investigation has been completed, at which time the United States will promptly notify this Court of the status of this matter.

Respectfully submitted,

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Assistant Attorney General

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Dated: May 8, 2007

CERTIFICATE OF SERVICE AND NO SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing United States' Ex Parte Application for a Stay of civil Proceedings and proposed Order have been sent via first-class mail, postage prepaid to the party noted below, on May 8, 2007. The Memorandum in support of that application has not been served upon the party noted below, because that pleading refers to details of the Government's investigation of this case.

Counsel for Relators

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FELICIA ADAMS
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THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

FILED
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BY ... DEP

UNITED STATES OF AMERICA, ex rel.
Cori Rigsby, et al.,

Plaintiff,

v.

STATE FARM INS. CO., et al.

Defendants.

Civil No. 1:06cv433WJG-JMR

FILED UNDER SEAL AND IN CAMERA

UNITED STATES' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ITS EX PARTE APPLICATION FOR A STAY OF CIVIL PROCEEDINGS

The United States of America submits this Memorandum of Points and Authorities in support of its ex parte application for a stay of this action. The Government respectfully requests that the Court grant a stay until the completion of the criminal investigation of Defendants that is being conducted by the United States Attorney's Office for the Southern District of Mississippi, and that during this time the Complaint and all documents filed in the above-captioned case remain under seal. If a stay is granted, the United States will advise the Court and relators every four months as to whether the stay continues to be justified. In support of its application the United States represents as follows:

1. In April 2006, the relators served the United States with a Complaint and statement of material evidence filed in the above captioned action, in camera and under seal, pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b).

2. Pursuant to 31 U.S.C. § 3730 (b) (2), the United States has sixty days from service of the Complaint as well as a written disclosure of material evidence by the relator in which to elect

whether or not to intervene in a qui tam action, although this deadline is subject to extension by the Court. In this case, pursuant to the Court's most recent extension, unless a stay is granted the Government's deadline to make its election will be July 7, 2007.

3. The Office of the United States Attorney for the Southern District of Mississippi has been conducting a criminal investigation, in connection with allegations similar to those made in the qui tam Complaint.

4. Any civil investigation will likely prejudice the ongoing criminal investigation of Defendants. The Assistant United States Attorneys involved in the criminal investigation have informed undersigned counsel that a postponement of the investigation of the qui tam action until the completion of the criminal inquiries would be appropriate, to avoid prejudice to their investigation and/or prosecution.

5. The United States cannot properly reach a decision on whether to intervene in the above-captioned matter until it conducts a thorough investigation of the relator's allegations. A stay is therefore warranted in the present action to protect the integrity of the criminal investigation. A stay is also warranted to prevent the disclosure of discovery material that a criminal defendant would not normally be permitted that may be critical to the criminal investigation.

6. This Court has the discretionary authority to grant a stay of this civil proceeding. A court's authority to grant a stay derives from the power of every court "to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for the litigants." Landis v. North American Co., 299 U.S. 248, 254, 57 S. Ct. 163, 166, 81 L. Ed. 153 (1936). Moreover, a court may stay civil proceedings "when the interests of justice seem to

require such action." United States v. Kordel, 397 U.S. 1, 12 n.27, 90 S. Ct. 763, 25 L. Ed. 2d 1 (1970).

7. The Court also has the authority to grant a stay in the present action pursuant to the provisions of the False Claims Act. 31 U.S.C. § 3730 (b) (3). Under the False Claims Act, the Government is permitted to request extensions to the time it has to intervene in a qui tam action upon a showing of "good cause." Id. The legislative history pertinent to this provision of the Act indicates that Congress contemplated the exercise of a district court's authority to grant stays, under the authority of 31 U.S.C. § 3730(c)(4), in deference to the pendency of related criminal matters. See S. Rep. No. 345, 99th Cong., 2d Sess., 24-25 (1986), reprinted in 1986 U.S.C.C.A.N. 5266, 5289-90. In discussing the circumstances in which it would be appropriate for a Court to grant a stay pursuant to Section 3730 (b) (3), the Senate Judiciary Committee explained that "a pending criminal investigation of the allegations contained in the qui tam complaint will often establish good cause for staying the civil action..." S. Rep. 99-345, at 25 (1986), reprinted in, 1986 U.S.C.C.A.N. 5266, 5290. The legislature contemplated the relief being sought by the Government and this is one of those circumstances where a stay should be granted.

8. In order to prevent the disruption of the criminal investigation and to permit the United States to make a meaningful decision about intervention in this civil case, the Government respectfully requests that this Court stay the period of time during which the United States must decide whether to intervene in this qui tam action until after the completion of the criminal proceedings. The Government will promptly inform the Court when the criminal investigation and/or prosecution is completed.

9. The United States also moves this Court to keep the Complaint and any material filed with this Court in the above-captioned case under seal for the duration of the requested stay.

10. Relators have represented, through counsel, that so long as the continuing need for a stay is reassessed every four months, they do not object to this application for a stay.

For the foregoing reasons, the United States respectfully requests that its application for a stay until after the completion of the criminal investigation of Defendants, during which time the Complaint and other documents filed in this matter shall remain under seal, be granted.

Respectfully submitted,

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Assistant Attorney General

DUNN O. LAMPTON
United States Attorney
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Dated: May 8, 2007

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FILED
MAY 22 2007
J.T. NOBLIN, CLERK
BY _____ DEPUTY

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA, ex rel.
Cori Rigsby, et al.,

Plaintiff,

v.

STATE FARM INS. CO., et al.

Defendants.

Civil No. 1:06cv433WJG-JMR

FILED UNDER SEAL AND IN CAMERA

RELATORS' MEMORANDUM REGARDING APPLICATION FOR A STAY OF CIVIL PROCEEDINGS

Although the United States has properly represented that the Relators do not object to the application for a stay so long as that need is reevaluated every four months, the Relators file this memorandum independently in support of the Government's position on a stay.

Since the Relators met with the United States and its representatives last summer, they have been personally involved in state court criminal matters and grand jury proceedings related to the fraud of the defendants in this matter. They have testified before a Mississippi grand jury. Sadly, they have also been sued in state court in Alabama for breach of fiduciary duty (for reporting the criminal activity), and for injunctive relief designed to muzzle them and end their cooperation with private attorneys. They are more than ready to assist the government with testimony or other assistance in the criminal probe and the underlying *qui tam* action.

From the beginning, Relators Cori and Kerri Rigsby have fully cooperated with the Federal Bureau of Investigation, providing information to them that they believed demonstrated criminal wrongdoing. They are interested in assisting the government in prosecuting any

behavior that may be criminal arising from the fraud by individuals or organizations that was directed against Katrina victims in the days and months following the storm.

The government, by giving the Relators an opportunity to be apprised of the status of the stay every four months, has graciously demonstrated its good faith. We support the government's application at this time. While Relators respectfully reserve their right to object to the stay at a later time, Relators remain assured that the government will act with alacrity in this matter, and such objection will not be necessary.

Respectfully submitted,

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ATTORNEYS FOR RELATORS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing memorandum has been sent via first-class mail, postage prepaid, to the parties noted below, on May 22, 2007.

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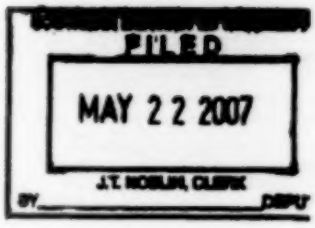
Relator's Counsel

IN THE UNITED STATES DISTRICT COURT OF MISSISSIPPI

SOUTHERN DISTRICT



UNITED STATES OF AMERICA EX REL. CORI RIGSBY, AND KERRI RIGSBY,

Relators,

vs

CASE NO. 1:06cv433 Sealed

STATE FARM MUTUAL INSURANCE COMPANY

NATIONWIDE INSURANCE COMPANY

ALLSTATE INSURANCE COMPANY

USAA INSURANCE COMPANY

FORENSIC ANALYSIS ENGINEERING CORPORATION

EXPONENT FAILURE ANALYSIS

HAAG ENGINEERING CO.

JADE ENGINEERING

RIMKUS CONSULTING GROUP INC.

STRUCTURES GROUP.

E. A. RENFROE, INC

JANA RENFROE

GENE RENFROE

ALEXIS KING

TO BE FILED IN CAMERA AND UNDER SEAL

Pursuant To 31 Usc § 3731

RELATOR'S FIRST AMENDED COMPLAINT FOR DAMAGES UNDER THE FALSE CLAIMS ACT, 31 USC § 3729 ET SEQ.

COMES NOW Relators in the above-entitled action, and for their cause of action state and aver as follows:

CAUSE OF ACTION

1. This is an action to recover damages and civil penalties on behalf of the United States of America arising out of the false claims presented for payment by the defendants under the National Flood Insurance Program, 42 USC § 4001, et seq. This is a cause of action brought by a relator pursuant to 31 USC § 3729 and the qui tam provisions of that statute found at 31 USC §§ 3730 and 3731.

2. 31 USC § 3730(b)(2) provides that "The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information." Plaintiff is filing this matter under seal.

3. A copy of the evidentiary disclosure required by the False Claims Act has already been served on the United States. A second, supplemental disclosure was made on December 8, 2006.

JURISDICITON AND VENUE

4. 31 USC § 3732 provides that: "Any action under section 3730 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in

which any act proscribed by section 3729 occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States."

5. As established by the pleadings, *infra*, defendant State Farm Mutual Insurance Company transacts business in this judicial district and this action may properly be brought against it in this district.

6. As established by the pleadings, *infra*, defendant Nationwide Insurance Company transacts business in this judicial district and this action may properly be brought against it in this district.

7 As established by the pleadings, *infra*, defendant Forensic Analysis Engineering Corporation transacts business in this judicial district and this action may properly be brought against it in this district.

8. As established by the pleadings, *infra*, defendant E. A. Renfroe, Inc., transacts business in this judicial district and this action may properly be brought against it in this district.

9. As established by the pleadings, *infra*, defendants Jana and Gene Renfroe, as the principals of E. A. Renfroe, Inc., have transacted business in this judicial district and this action may properly be brought against it in this district.

10. As further established by the pleadings, the acts proscribed by § 3729 occurred in this judicial district.

PARTIES

11. Relator, Cori Rigsby is a citizen and resident of the State of Mississippi and is employed by E. A. RENFROE, INC., a company that is an independent contractor for State Farm Mutual Insurance Company, USAA and Nationwide Insurance Company. She is a claims manager and from time to time has witnessed the events set forth herein.

12. Relator Kerri Rigsby is a citizen and resident of the State of Mississippi and is employed by E. A. RENFROE, INC., a company that is an independent contractor for State Farm Mutual Insurance Company, USAA and Nationwide Insurance Company. She is a claims manager and from time to time has witnessed the events set forth herein.

13. Defendant State Farm Mutual Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company. At all times relevant herein it has done business in this judicial district and the acts complained of occurred here.

14. Defendant Nationwide Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company. At all

times relevant herein it has done business in this judicial district and the acts complained of occurred here.

15. Defendant USAA Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company. At all times relevant herein it has done business in this judicial district and the acts complained of occurred here.

16. Defendant Allstate Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company. At all times relevant herein it has done business in this judicial district and the acts complained of occurred here.

17. Defendant Forensic Analysis Engineering Corporation is a Mississippi engineering firm providing forensic analysis for insurance agencies for the purpose of categorizing damage as being of one type (wind) or another (water). In this case FAEC provided materially false engineering reports at the request of State Farm Mutual Insurance for the sole purpose of convincing FEMA to pay property damage claims out of flood insurance rather than hurricane or homeowner's insurance, as is more fully set forth herein.

18. Defendant Exponent Failure Analysis is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

19. Defendant Haag Engineering Company is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

20. Defendant Jade Engineering is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

21. Defendant Rimkus Consulting Group, Inc., is an engineering firm providing consulting services to defendants State Farm and on information and belief,

Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

22. Defendant Structures Group is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

23. Defendant Structures Group, Rimkus Consulting Group, Inc, Haag Engineering Company, Jade Engineering, Exponent Failure Analysis, Forensic Analysis Engineering Corporation are all collectively referred to herein as "Engineering Defendants."

24. Defendant E. A. Renfroe, Inc., operated as a closely-held corporation by Gene and Jana Renfroe, defendants herein, is a business that provides adjusters to insurance companies during periods of natural disaster, and in the case of Hurricane Katrina, provided Kerri Rigsby and Cori Rigsby to State Farm Mutual Insurance Company as leased employees for the purpose of cloaking them with authority to adjust claims on behalf of State Farm Mutual Insurance. As more fully set forth infra, Defendant actively conspired with

State Farm Mutual Insurance Company to defraud the federal government on Flood Insurance Claims.

25. Defendants Jana and Gene Renfroe, who are officers or directors of E.A. Renfroe, Inc., conspired with State Farm Mutual Insurance Company and with others to retaliate against Cori and Kerri Rigsby as a result of their gathering information to support a claim under 31 USC § 3729 et seq.

26. Defendant Alexis "Lecky" King is a supervisory adjuster with State Farm and at all times directed the fraudulent acts perpetrated by State Farm and Renfroe adjusters.

BACKGROUND FACTS

RELATORS

27. Relators worked for E. A. Renfroe, a company that provides disaster claims management services (and claims representatives) for defendants State Farm Mutual Insurance Company, USAA and Nationwide Insurance Company. In the course of their duties as employees of the EA Renfroe firm, they have been personally pressured by defendant State Farm's and E.A. Renfroe's supervising claims personnel to change claims payments. They have full and independent knowledge of the facts and circumstances surrounding the allegations made in this complaint, and learned this information in their capacity as employees, and through no other source. They made a report to federal and state law enforcement officials prior to filing this action.

28. Relators began their efforts as independent adjusters and team managers for the State Farm Mutual Insurance Company Catastrophe Team (aka "CAT" team), on September 2, 2005, when State Farm brought them, as leased employees, to Gulfport MS for the purposes of adjusting claims for victims of Hurricane Katrina.

29. On or about April 19, 2006, Relators presented a full evidentiary disclosure to the United States Attorney for the State of Mississippi, turning over substantially all material evidence in their possession, as well as providing a detailed personal account of the wrongdoing and fraudulent conduct engaged in by the Defendants. Relators did not file this action until full disclosure had been made to the United States Attorney.

30. Following the submission of the evidentiary disclosure, but before meeting with the United States Attorney, relators set about to gather additional evidence of fraud on the federal government.

31. On or about June 3rd, 2006, Relators accessed the files of State Farm Mutual Insurance Company and copied selective information from the computer files of the insurer that showed, in their view, that State Farm had engaged in wire fraud, mail fraud, fraud in violation of 31 USC § 3729, had submitted false claims, and had destroyed evidence of multiple engineer reports.

32. On or about June 5, 2006, Relators informed State Farm that they had taken the documents and given them to federal prosecutors on the advice of their attorneys. On or about June 5th, prior to notifying State Farm, Cori Rigsby

provided copies of the documents to state and federal law enforcement officials.

33. Immediately on learning that the Rigsbys had gathered the evidence against their criminal and fraudulent conduct, on June 6, 2006, State Farm asked the Rigsbys to discuss matters with State Farm lawyers. The Rigsbys refused. They went on vacation and returned on or about June 20, 2006. At that time State Farm locked them out of their facility, escorted them out under a security escort, and told them they would not be allowed back into the building.

34. Thereafter Defendant State Farm conspired with Defendant E.A. Renfroe, and with Jana Renfroe and Gene Renfroe, to impose retaliatory actions on Cori and Kerri Rigsby. They were later discharged from employment by E. A. Renfroe.

35. Thereafter, in September 2006, E. A. Renfroe initiated a strategic lawsuit against public participation against the Rigsby sisters asking the federal court in Birmingham to enjoin their use of the documents and to return State Farm's documents to E. A. Renfroe. This was done so as to avoid the criminal investigation of the state of Mississippi and the federal government.

36. The Rigsby sisters refused to return the documents and sought to defend the action against them. Thereafter the federal court imposed an injunction on the relators and required them to return the documents in their possession. As no documents were in their possession, the sisters could not return any.

37. The defendants indicated in court filings that they knew of the existence of this case, and that their damages in that case were linked to the recovery made by the Rigsbys here in this case.

38. Renfroe, knowing well that the relators had no documents, still attempted to cite them for civil and criminal contempt even though they admitted, at a hearing on March 19, 2007, that they could not prove how many documents were taken, and if the Rigsbys even had documents.

39. The Renfroe lawsuit has caused the Rigsbys to engage legal representation and to incur thousands of dollars in attorneys' fees.

STORM SURGE

40. Storm Surge is simply water that is pushed toward the shore by the force of the winds swirling around the storm. This advancing surge combines with the normal tides to create the hurricane storm tide, which can increase the mean water level 15 feet or more. In addition, wind driven waves are superimposed on the storm tide. This rise in water level can cause severe flooding in coastal areas, particularly when the storm tide coincides with the normal high tides. Because much of the United States' densely populated Atlantic and Gulf Coast coastlines lie less than 10 feet above mean sea level, the danger from storm tides is tremendous.

41. Storm surge is most intense in the right-front quadrant of a hurricane. See http://www.nhc.noaa.gov/HAW2/english/storm_surge.shtml

42. While storm surge comes about as the eye makes landfall, Hurricane force winds precede the storm surge by six to seven hours. Hurricane force winds can remain destructive in excess of 100 miles per hour even as far as 175 miles inland.

43. At the very beginning of the claims adjustment period, State Farm commissioned a report from Haag Engineering which concluded that storm surge preceded the hurricane force winds in the storm, and thereby caused the majority of the damage in the hurricane.

44. This conclusion was contrary to science and all normative models of hurricanes in the past 100 years. In spite of this, State Farm made the Haag Report their "bible" in evaluating wind vs. water causation.

45. Essentially the Haag Report lent enough credibility to the adjusters to assign wind claims to water damage.

HOW FLOOD INSURANCE WORKS

46. The United States Government, acting through the Federal Emergency Management Agency, (FEMA) is the only entity in the United States that underwrites flood insurance.

47. In most cases, as here, the government only acts as the funding source, and the coverage is sold through private insurance companies called "WYO" or Write Your Own companies.

48. When there is a claim under a Standard Flood Insurance Policy ("SFIP"), the private WYO insurance company is required to adjust the claim in accordance with the federal regulations. The applicable regulation, 44 CFR § 62.23(d) provides: "A WYO Company issuing flood insurance coverage shall arrange for the adjustment, settlement, payment and defense of all claims arising from polices of flood insurance it issues under the [National Flood Insurance Program], based on the terms and conditions of the Standard Flood Insurance Policy."

49. In acting as the claims adjuster for the government, the WYO companies are fiscal agents of the government and payments on SFIP claims are a direct charge on the United States Treasury. See ***Wright v. Allstate Ins. Co.***, 415 F.3d 384, 386-87 (5th Cir. 2005). To the extent that an insurer presents a claim for reimbursement under the SFIP to the federal government, that claim is presented to an officer or agent of the United States Government, specifically, to the Director of the Federal Emergency Management Agency.

50. Whenever an insurer has sold a homeowner's policy (or hurricane policy) that it underwrites, and also issues a flood insurance policy under the National Flood Insurance Program ("NFIP"), the flood insurance policy is never more than the homeowner's insurance policy or the accompanying hurricane insurance policy.

51. In acting as the government's agent in adjusting the claim, the company has an incentive to charge off all damage to the government as flood damage because when they do so, the government, acting through FEMA, pays the

entire claim, thereby relieving the company of its obligation under its own policy of insurance.

52. The term "flood" is narrowly defined by statute and rule:

a. 42 USC § 4121(1) states "the term 'flood' shall have such meaning as may be prescribed in regulations of the Director, and may include inundation from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge;"

b. The director has provided the following definition of flood:

Flood, as used in this flood insurance policy, means:

1. A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (one of which is your property) from:

a. Overflow of inland or tidal waters,

b. Unusual and rapid accumulation or runoff of surface waters from any source,

c. Mudflow.

2. Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined in A.1.a. above.

44 CFR Pt. 61, App. A(1)

53. During Hurricane Katrina, FEMA identified only small parts of the Mississippi coast as flood damaged, generally around Bay St. Louis. The remainder was identified as hurricane damage.

54. In most locations where a defendant insurance company has written flood insurance policies and collected premiums under the NFIP, the company has also written homeowners and hurricane insurance.

55. Under the arrangement between the company and FEMA, (44 CFR Pt. 62, App. A), the government requires when the company writes coverage for other perils and flood insurance, that one adjuster be used.

REALLOCATION OF WIND CLAIMS TO FLOOD CLAIMS

56. On information and belief, beginning at about the time the first claims began to come through adjusters for Hurricane Katrina, defendant insurance companies made a corporate decision to misdirect and misallocate claims from those of hurricane coverage (which a company would be required to pay from its reserves or reinsurance) to flood claims that could be submitted and paid directly from the United States Treasury. They communicated this decision directly or indirectly to the E.A. Renfroe company when they sought compliant and poorly-trained adjusters to assist in the handling of flood-related losses.

57. In order to facilitate the misallocation, State Farm ordered an engineering survey on every claim that involved a "slab" (a loss where there was nothing left but foundation), a "popsicle stick" (a loss where there were only beams or

pilings remained standing), or a "cabana" (a loss where a roof remained but the main interior of the building had been damaged due to wind, flood, or otherwise).

58. State Farm's view was that it was better to pay $1,500 for an engineering report if it would save them up to $350,000 on a homeowner's claim.

59. On information and belief, defendant State Farm directed its employee adjusters and independent contractor adjusters (supplied by defendant E.A. Renfroe, Inc., and supervised by Renfroe employees including Jana and Gene Renfroe) to show flood damage whenever and wherever there was any amount of water damage, and to adjust the claim as flood insurance rather than hurricane insurance even though the primary mechanism for damage was wind, not flood waters.

60. In addition, when directing adjusters to categorize claims as flood damage and shift responsibility to the government for payment of the claim under flood insurance, State Farm insisted that adjusters "hit limits" when adjusting flood claims.

61. This "hit the limits" instruction was a *quid pro quo* to E. A. Renfroe for its compliance with the flood-fraud scheme in that adjusting costs paid to State Farm under the Flood Insurance Program are linked directly to the amount of damage paid to the insurer.

62. Specifically, adjusters were told that if they initially analyzed a claim and found that the insured had less damage under flood coverage than policy

limits allowed, the adjuster was told to go back through the claim a second time to ensure that the flood claim "hit limits." Adjusters used a computer program designed by State Farm known as "XACT Total" as a shortcut to determine the amount of damage for a claim. XACT Total was used to make determinations of total flood loss even in homes that sustained moderate flood damage.

63. On information and belief, particularly where the wind (and not the water) made a structure unsalvageable, the claims were misallocated into flood insurance claims because flood insurance claims were paid by the US Treasury and did not come out of the company's reserves.

64. This misallocation of claims has resulted in significant damage to the federal treasury.

SPECIFIC INSTANCES OF REALLOCATION OF WIND CLAIMS TO FLOOD CLAIMS

65. Relators are aware of two specific instances where Defendant State Farm has engaged in reallocation of claims from wind damage to flood damage.

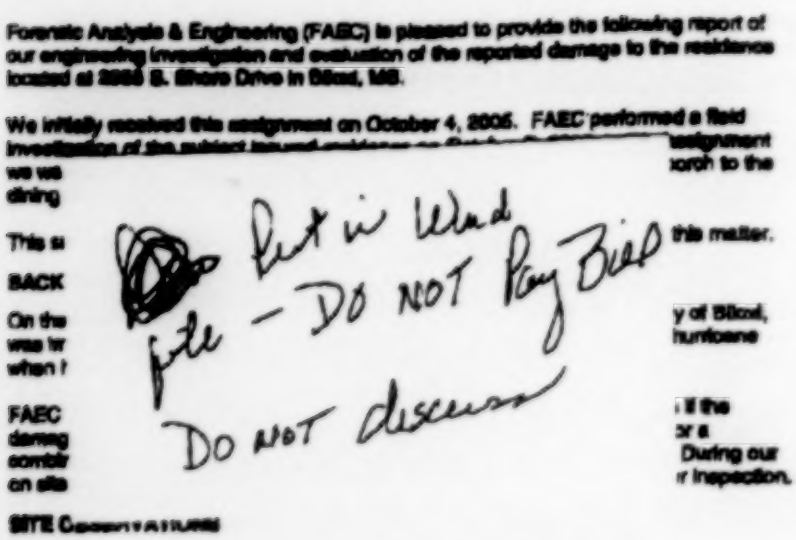
66. On October 4, 2005, State Farm Mutual Insurance Adjuster Cody Perry issued an assignment to defendant Forensic Analysis Engineering Corporation (FAEC) for the purpose of having FAEC determine the nature of the destruction of the property located at 2558 S. Shore Dr., Biloxi, MS. FAEC carried out the assignment on October 7, 2005. The firm did a site inspection and reached conclusions based on the inspection.

67. The engineering firm concluded that the damage that occurred to the insured's home at the time of the hurricane was due principally to wind, and not to water.

68. That report was dated October 12, 2005. The report said:

> **CONCLUSIONS**
>
> **Based upon the information that has been presented to FAEC and evidence gleaned during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusion concerning the damage to the structure.**
>
> - **The tree failures in the northwesterly direction are the result of the winds out of the southeast from the approaching hurricane.**
> - **The roof, door, carport, and window damage was caused by wind and wind driven debris.**
> - **It is FAEC's opinion that the interior damage of the structure is primarily the result of the failure of the windows, walls, and doors due to wind.**
>
> **The conclusions and opinions presented in this report are based on the results of FAEC's field investigation of the subject residence, as well as our analysis of the available wind and localized water level data and upon all of the other associated information that we have gathered during the course of our investigation efforts to date. If additional information or facts become available which materially affect these stated conclusions and opinions, then, FAEC reserves the right to amend or change its opinions and conclusions as needed.**

69. This report never became part of the permanent record of the McIntosh claim because it was recognized as contrary to the direction given to State Farm adjusters. On information and belief, State Farm CAT Corrdinator Alexis "Lecky" King wrote the following note on the report: "Put in Wind file – DO NOT pay bill. Do Not Discuss" A copy of that note is shown below:



Forensic Analysis & Engineering (FAEC) is pleased to provide the following report of our engineering investigation and evaluation of the reported damage to the residence located at [redacted] Shore Drive in Biloxi, MS.

We initially received this assignment on October 4, 2005. FAEC performed a field investigation of the subject insured residence on [redacted] assignment we we dining

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70. Thereafter, on October 20, FAEC was commissioned to write a completely different report. The second report was based on a site visit of October 18, 2005, and never disclosed the prior site visit. The observations in this second report did not contain any observations from the previous report, and contained numerous observations that were completely contrary to the findings in the first report. Thereafter, the report found:

CONCLUSIONS

Based on the information that has been presented to FAEC and evidence gleaned during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusions concerning the damage to the structure:

- **The tree failures in the northwesterly direction are the result of the winds out of the southeast from the approaching hurricane.**
- **There appears to have been damage to the structure by wind as evidenced by missing shingles on parts of the roof structure. Damage to the second story floor and first floor ceilings was predominately caused by wind and intruding rainwater.**
- **The damage to the first floor walls and floors appears to be predominately caused by rising water from the storm surge and waves.**

71. On or about September 26, 2006, State Farm representative Christy Sims commissioned a study by FAEC on the Mullins home at 6057 Pine Tree Drive, Kiln, MS.

72. Among the observations made by the engineers were that the structure had already been removed from the site, as required by FEMA, and that much of their analysis was based on photographs provided to the engineers by the homeowners.:

SITE OBSERVATIONS

The following are the observations made during FAEC's inspection of the structure:

- Upon approaching the property the house had been already removed from the site as required by FEMA.

- From attached photographs provided by the insured, the entire house had been taken off from its support piers and came to a rest against the house across the street. The house had rotated about 180 degrees and its front was facing south. The porch area was about in line with the center of the street.

- No significant damage to the house was observable in the insured's photos, except for the contact point with the neighboring house across the street.

- According to the insured, the water had rose to 10 inches above the floor level at a neighboring residence close by. No water damage to the house could be appreciated from the photographs nor observed from the surroundings.

- The 24 inches high concrete block piers were in complete disarray. The blocks were not joined to each other nor anchored to the ground.

- With very few exceptions, all the trees around the observable area were standing straight and with all their foliage remaining.

73. The report concluded that the damage was due primarily to wind, and not to flooding.

74. The report's conclusion section stated:

CONCLUSIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how these conditions affected the neighborhood area of the insured residence conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated:

- **FAEC has concluded that the primary and predominant cause of damage to the subject property was due to hurricane force winds. This is based on the displacement of the house and the absence of water damage to the same. However, this displacement was facilitated by the poor anchoring and supporting observed.**

75. Thereafter, or on about January 3, 2006, FAEC submitted a different report predicated on the same site visit of October 11, 2005, but not mentioning the prior report. Observations from the second report included:

- **There was tree damage in the neighborhood with trees falling to the west northwest.**
- **There was shingle damage to houses nearby.**
- **The owner of the trailer across the street, whose home was impacted by the insured's, indicated that the water had come up to the bottom of her trailer. This was estimated to be between 2 and 3 feet above grade.**
- **The foundation for the insured's home consisted of concrete block piers about 2 feet above grade. No tie downs were observed, however one photograph furnished by the insured pictured, what appeared to be, a minimally effective tie down.**

76. In addition, the conclusion of the second report stated a completely different finding than the original report of October 11, 2005.

77 The second report concluded that the damage was due to flood waters, saying:

CONCLUSIONS & OPINIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how these conditions affected the neighborhood area of the insured residence conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated:

- **The tree failures in the northwesterly direction were the result of winds out of the southeast from the approaching hurricane.**
- **The damage to the interior of the house could not be determined as no evidence was available.**
- **The movement of the house across the street with minimal obvious wind damage is consistent with a buoyant force applied to the building by rising water allowing the wind to blow the house northwards until it reached an obstruction.**

SPOLIATION OF EVIDENCE

78. On our about April 12, 2006, relators learned that defendant State Farm Mutual Insurance Company had in fact engaged the services of a commercial document shredding company, "Shred It." Relators were told by at least one State Farm employee that some claims data and/or engineering reports associated with the fraudulent conduct in this case were being shredded. Whether or not Shred-It was employed to shred particular documents is unknown to the relators, but relators' strong suspicion is that data necessary to prove fraud were and are being shredded.

79. At some point prior to being subpoenaed by the Attorney General of Mississippi and private civil lawyers, Alexis King and Richard Moore sent out a memorandum to all staff adjusters at State Farm that indicated that the original engineering reports on all claims files were held under lock and key. and only those two people could release them.

80. Sometime later, with respect to these original engineering reports that had been stacked on Ms. King's desk at a height of more than one foot tall, State Farm went to a "paper lite" system that caused them to "scan" into the computer one engineering report and discard, scan, shred, spoliate or destroy any other engineering reports generated by the purported independent engineering firms.

81. On or around November 11, 2005, State Farm sent facsimile transmissions to many of the Engineering firms. That fax stated, for example, "Structure Group. Please cancel this assignment. Claim Number 24-Z455-169. Insured: Balius. Thanks. Catastrophe Team Manager David Haddock, 11-11-05. If you have already inspected this loss, do not write the report. Send your investigation material with your bill. Send the report if completed."

82. The purpose of these cancellations and facsimile transmissions was to recall the directive requiring engineering reports to be submitted with all claims and to prevent further engineering reports from being submitted containing determinations that damages were the result of causes other than water.

83. State Farm, while ordering these engineering reports, did not allocate blocks of claims in particular regions to specific engineering companies, and in fact, assigned some claims early on to engineering companies like Dreux Seghers who reported the cause of the damage as wind, and who, when contacted by the Defendants, refused to change their report to reflect that the damage was caused by water.

84. A compilation of all claims assigned to some of the engineering firms shows the Defendants caused an exceptionally high rate of cancellation of engineering reports from those firms, like Dreax Seghers, that routinely concluded that wind, and not water, was the causative agent of the damage. The compilation of claims shows that engineering reports were requested from Dreux Seghers' firm only 79 times and that 32 of those reports were subsequently cancelled (41% cancellation rate). By contrast, Defendants requested 214 engineering reports from Exponent Failure Analysis and that only 36 of those reports were subsequently cancelled (17% cancellation rate).

85. The actions of the defendants in spoliating evidence of their fraud on the federal government led the relators to obtain documents on June 3, 2006, in order to substantiate the fraud being committed on the US Government.

INCONSISTENT ENGINEERING ASSESSMENTS

86. Because there was not an area-by-area assignment of engineering firms, great disproportionality resulted in the reports received. One example can be found in the claim of Anna Vela of Biloxi.

87. Vela's claim was evaluated by Dreux Seghers who concluded that the cause of the damage was wind.

88. The team manager, Mark Drain, concluded that the engineering report required him to pay the full policy limits under the wind coverage.

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89. The supervisor, Alexis "Lecky" King told Drain that the engineer was a "moron" and that the report should be sent back to the engineer to get him to correct his report to show flood damage.

90. King then left the office for a few days and Drain, seeing an issue with an engineering report he commissioned being used as the basis to deny rather than pay the claim, paid the full policy limits under the wind coverage.

91. There were numerous other claims for wind and water damage on the same street (Baywood Drive). All of those claims by State Farm (and other insurers) were denied for wind damage, resulting in inconsistent determinations.

GRANT FRAUD

92. In October, Congress passed a grant program for gulf coast Katrina victims.

93. The flood grant program was designed to provide a source of rebuilding funds for persons who suffered casualty losses due to flood but who did not live in a flood plain and did not have flood insurance, and their homeowner's claims were denied for that reason.

94. On or about April 18, 2006, Ryan Murphy, a State Farms Claims Team Manager ordered after a mediation that payments originally destined to compensate under Coverage A (Homeowners) be reallocated to Coverage C (contents) so as to permit the policy-holders to apply for the grant program.

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95. By employing engineering reports that reallocated losses to "flood" instead of homeowners, State Farm, Nationwide, and other insurers essentially pushed off their responsibility to pay claims onto the federal government.

96. By refusing to pay based on false engineering reports, the defendants caused Katrina Victims to submit false claims to the federal government's flood grant program.

BACKDATING OF CLAIMS

97. On information and belief State Farm Agent Mike Myers did not have Flood Insurance through the NFIP before Katrina hit the Biloxi area.

98. In addition to Myer's own failure to have insurance, several of his friends and associates did not have flood insurance.

99. In spite of the failure to have flood insurance in place before the storm hit, Myers, working with someone in underwriting at State Farm, backdated a policy for himself and for several others who did not have flood coverage.

100. This permitted Myers, among others, to submit claims for flood insurance even though the victims did not have flood insurance before the storm hit.

ADJUSTING EXPENSES

101. Under the rules of the NFIP and pertaining to adjustment of claims, the insurance company must use the same adjuster to adjust the claim for homeowners and flood insurance.

102. During Katrina, independent adjusters were employed to adjust claims.

103. As noted earlier, adjusters were told, when adjusting claims involving flood insurance, to "hit the limits" regarding the flood coverage.

104. When an independent adjuster handles a claim for the flood program and the policy holder has the maximum policy limits ($250,000 structure, $100,000 contents), the adjuster is paid by the federal government a fee of approximately $7,000.

105. This $7,000 amount is passed along to the Flood Insurance Administrator as an adjusting cost with a markup by State Farm.

106. By passing a loss over to the FIA and the NFIP, State Farm not only benefited by not having to pay the claim, but was able to transfer their adjusting costs to the FIA through the NFIP. This was a *quid pro quo* to E.A. Renfroe who directly benefited from the acts of State Farm.

107. The amount of administrative fees that State Farm receives from the FIA and the NFIP is a sliding scale based on the amount of the claim being paid. The amount of the administrative fee goes up in accordance with the amount of the flood loss claim.

COUNT I
VIOLATION OF 31 USC § 3729(a)(1)

108. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 107 as if fully set forth herein.

109. Defendants State Farm Mutual Insurance Company, E. A. Renfroe, Inc., Alexis King, Jana Renfroe, Gene Renfroe, and the various engineering defendants, acting through their employees, officers, agents and independent contractors knowingly presented or caused to be presented claims for payment of flood damage.

110. On information and belief, Defendants Allstate, USAA Insurance Company, and Nationwide Insurance Company acting through their employees, officers, agents and independent contractors knowingly presented or caused to be presented claims for payment of flood damage.

111. Defendants' claims are direct charges against the United States Treasury and were presented to the Federal Insurance Administrator, FEMA, or its agents who are officers or employees of the United States Government.

112. The claims presented by Defendants were false or fraudulent in that:

a. Damage to property that was more properly reflected as wind damage, and structural damage due to wind and flying debris was characterized in adjusters reports as "flood damage" even though it did not meet the

definition of "flood" found in the Standard Flood Insurance Policy, 44 CFR Pt. 61, App. A(1).

b. Claims were submitted for property that were outside the area designated as flood damaged by FEMA, where there was no evidence that the damage met the definition of "flood" found in the Standard Flood Insurance Policy, 44 CFR Pt. 61, App. A(1).

c. Defendants submitted claims for flood losses to the NFIA when engineering reports stated that the damages were due to wind, not water.

d. Defendants submitted costs and expenses for adjusting flood claims that were in fact wind or hurricane claims.

e. Defendants permitted agents to backdate insurance applications for flood coverage and submit damage claims when, in fact, there was never any coverage for the flood damages.

f. Defendants inflated flood claims to the maximum amount possible to push off costs due to wind onto the Federal Government.

113. The claims were submitted or caused to be submitted and presented or caused to be presented by Defendants through their agents or employees for payment or approval by the United States Government.

114. The claims were paid by the United States Government, through withdrawals of funds held by the United States Treasury, consistent with the procedure set up under the National Flood Insurance Program.

115. As a direct and proximate result of paying millions of dollars in flood insurance claims that were in fact claims for hurricane damage, the United States Treasury sustained millions of dollars in damages.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam Plaintiff under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT II

VIOLATION OF 31 USC § 3729(a)(2)

116. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 115 as if fully set forth herein.

117. Defendants, State Farm Mutual Insurance Company, E. A. Renfroe, Inc., Jana Renfroe, Gene Renfroe, Alexis King, and the Engineering Defendants, acting through their officers, employees, agents, adjusters, and independent contractors knowingly made, used, or caused to be made or caused to be used, false records in support of false claims.

118. On information and belief, Defendants Allstate, USAA Insurance Company, and Nationwide Insurance Company acting through their employees, officers, agents and independent contractors, knowingly made, used, or caused to be made or caused to be used, false records in support of false claims.

119. Those false records included, but were not limited to:

a. False adjustment reports which were false in that they misidentified the nature of the damage as flood damage where there was no evidence that the damage met the definition of "flood" found in the Standard Flood Insurance Policy, 44 CFR Pt. 61, App. A(1).

b. False factual findings reported to FEMA or the FIA that showed that property was damaged by flood when in fact these properties were outside the area designated as flooded by FEMA.

c. False statements of adjusters reflecting findings of flood damage when the real structural damage had been caused by wind, or rain.

d. False attestations of facts on forms directing payment to be made under flood policies.

e. False statements to homeowners, engineers, adjusters, and others in that one report by the same company concluded that the damage was due to wind, and a second, later, re-written report reflected that the damage was caused by flood.

f. False expense reports submitted to the FIA for NFIP adjustment expenses.

120. Defendants submitted or caused to be submitted these false records or statements in order to get false or fraudulent claims paid or approved by the Government under the National Flood Insurance Program.

121. As a direct and proximate result of the submission of the false claims and false records and reports, the United States Treasury paid millions of dollars in claims for flood insurance that should have been paid by the Defendants.

122. As a direct and proximate result of paying millions of dollars in flood insurance claims that were in fact claims for hurricane damage, the United States Treasury sustained millions of dollars in damages.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam Plaintiff under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT III
VIOLATION OF 31 USC § 3729(a)(3)

123. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 122 as if fully set forth herein.

124. Defendants, State Farm Mutual Insurance Company, E. A. Renfroe, Inc., Jana Renfroe, Gene Renfroe, Alexis King, and the Engineering Defendants, acting through

their officers, employees, agents, adjusters, and independent contractors conspired to defraud the Government by getting false or fraudulent claims allowed or paid.

125. On information and belief, Defendants Allstate, USAA Insurance Company, and Nationwide Insurance Company and the Engineering defendants, acting through their employees, officers, agents and independent contractors, conspired to defraud the Government by getting false or fraudulent claims allowed or paid.

126. Defendants conspired with:

a. outside adjusters, including adjusters specially hired to adjust the losses in the Hurricane Katrina area, and directed them to service homeowners with claims. The names of these individual adjusters and adjustment companies are not all known to the Relators but are discoverable by the government.

b. Agents, officers, employees or servants of Forensic Analysis Engineering Corporation, FEAC, to have those agents, officers, employees or servants issue false and misleading engineering analysis reports, and to "correct" any analysis reports that showed that the damage was due to any cause other than flooding.

c. Agents, officers, employees or servants of other Engineering firms, whose names are unknown to Relators presently but who are discoverable by the government.

d. Defendants conspired, on information and belief, with certain homeowners by instructing them to fill out their homeowners insurance claims and hurricane damage claims as flood insurance claims promising to maximize flood insurance claim damage in exchange for not collecting under homeowner's coverages.

i. Defendants, on information and belief, instructed their insureds to fill out their claim forms in this manner so as to misallocate the liability for payment to FEMA, the FIA, and the National Flood Insurance Program.

127. Defendants conspired with engineers who were independent contractors offering them material inducements (continuing business relationships) to submit flood insurance claims instead of hurricane or homeowners claims.

128. Defendants conspired with purportedly independent FEAC and other engineering firms (John Does 1 – 4) yet to be discovered directing them to find flood damage instead of wind damage so as to permit the maximum payout from federal funds rather than from the Defendants' Nationwide and State Farm Mutual Insurance Company's reserves. On information and belief, if an engineering firm refused to change a determination to "flood" State Farm and Nationwide would no longer hire that engineer to provide engineering consulting services.

129. When the engineering firm neglected to find flood damage, the insurance companies would refuse to pay invoices until the reports were reclassified as flood, thereby placing undue pressure upon and exercising control over

purportedly independent contractors for the purpose of furthering the conspiracy to defraud the government.

130. Defendant E. A. Renfroe, Inc., conspired with State Farm and its employee Alexis "Lecky" King. The relationship between parties is set out below:

Defendant	Conspired With
State Farm Mutual Insurance Company	E. A. Renfroe Jana Renfroe Gene Renfroe Engineering Defendants
Nationwide	Engineering Defendants
USAA	Engineering Defendants
Allstate	Engineering Defendants
Alexis King	E. A. Renfroe Jana Renfroe Gene Renfroe
Jana Renfroe	Gene Renfroe State Farm Mutual Ins. Co. Alexis King
Gene Renfroe	Jana Renfroe State Farm Mutual Ins. Co. Alexis King

131. Defendants and their co-conspirators acted with the intent to deceive and defraud the United States Government by pushing off the responsibility for paying hurricane claims on the US Government and by causing purportedly independent engineering firms to re-write reports to transfer responsibility to the FEMA funds available under the NFIP.

132. Defendants took material steps in furtherance of the conspiracy, to wit:

a. State Farm Mutual Insurance Company submitted claims through the FIA to the NFIP and paid losses from federal funds instead of from its reserves.

b. E. A. Renfroe actively policed its loaned adjusters to ensure that no reports of the fraudulent activity were made.

c. Nationwide Insurance Company submitted claims through the FIA to the NFIP and paid losses from federal funds instead of from its reserves.

d. Defendant FAEC submitted replacement reports that were modified as a part of the conspiracy to reflect flood water damage instead of wind damage.

e. Alexis King communicated her intent to deceive in numerous emails sent, among other places, to Renfroes' local on-site manager.

133. As a direct and proximate result of the conspiracy to submit false claims the United States Treasury paid hundreds of millions of dollars in claims for flood insurance that should have been paid by the Defendants.

134. As a direct and proximate result of paying hundreds of millions of dollars in flood insurance claims that were in fact claims for hurricane damage or homeowners' insurance damage payable from the reserves of the Defendants' insurance companies, the United States Treasury sustained millions of dollars in damages.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the

United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam Plaintiff under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT IV

VIOLATION OF 31 USC 3729(a)(7)

(Reverse False Claims)

135. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 134 as if fully set forth herein.

136. Defendants knew or in the exercise of reasonable care should have known that claims presented to the United States Treasury for payment under the National Flood Insurance Program were false or fraudulent, and should not have been paid from federal funds.

137. As such, Defendants knew or in the exercise of reasonable care should have known that they were in possession of money that was rightfully that of the United States Government, since the reserves saved by paying claims from the NFIP should in fact have been paid out to policy-holders, and instead, those losses were passed along to the federal treasury.

138. Defendants knew that false records, specifically, false engineering and inspection reports were created in order to justify payment of claims from the NFIP.

139. Defendants also knew that they were in possession of initial engineering reports that showed that the true cause of the damage was wind.

140. The original engineering reports should have been maintained in the claims folders along with all other records associated with the claims.

141. Instead, the engineering documents were pulled and any "original" documents showing wind damage were shredded by "Shred It" or by employees of Defendants.

142. When a document that would normally be a part of a record is removed, spoliated and/or destroyed it is the creation of a false record because the omitted documents create a false impression in the record.

143. Defendants knowingly created false records by omitting, concealing, suppressing, spoliating or destroying the original engineering reports and original invoices.

144. The suppression, omission, concealment, spoliation or destruction of the original reports and records was done to conceal, avoid, or decrease the Defendants' liability to repay the federal government.

145. The actions of the Defendants in creating false records in order to avoid or decrease a liability to the federal government resulted in damage to the federal treasury.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam Plaintiff under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT V

Retaliation Under 31 USC § 3730(h)

146. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 145 as if fully set forth herein.

147. At all times relevant herein relators were the joint employees of State Farm Mutual Insurance Company and E.A. Renfroe, Inc. At all times they were issued State Farm business card, State Farm shirts, State Farm Computers, worked out of State Farm offices, applying directives from State Farm in that State Farm, and not the relators, controlled the manner of work performed by the Relators. E. A. Renfroe was a joint employer in that while it did not direct their daily work, it did maintain a supervisory prescence that was at all times subservient to and acted upon the instructions of State Farm.

148. As established above, Defendants E. A. Renfroe, Inc., and State Farm Mutual Insurance Company was aware that relators had engaged in conduct protected under 31 USC § 3729 et seq. in that relators told defendants that they had copied evidence of fraud on the US government when they met with the defendants on June 5, 2006. Such conduct reasonably placed the defendants on notice that a false claims act case was a reasonable possibility. ***U.S. ex rel. Eberhardt v. Integrated Design and Construction, Inc.***, 167 F.3d. 861 (4th Cir. 1999).

149. At that meeting State Farm attorneys sought to pressure the relators to disclose the contents of what was copied to assist them in defeating relator's claims and for the purposes of hindering the federal government's investigation into the practices that led to the filing of this lawsuit. The presence of attorneys is additional evidence that State Farm was on notice of the likelihood of qui tam litigation.

150. As a result of engaging in protected concerted activity the relators were discriminated against in the terms or conditions of their employment by their then employer State Farm Mutual Insurance Company in that they were locked out of the building, told not to return, and were forced to resign from the storm because State Farm would not let them work. Such conduct constitutes retaliation in that it is reasonably likely to deter employees from engaging in activity protected under the FCA. ***Moore v. California Institute of Technology Jet Propulsion Laboratory,*** 215 F.3d 949 (8th Cir. 2000).

151. The conduct of copying documents, obtaining emails with directions to engage in felonious conduct, and preserving the evidence of the fraud, when State Farm had been repeatedly employing a "Shred It" service in order to avoid investigative subpoenas by the Mississippi Attorney General, was lawful protected concerted activity as set forth by 31 USC § 3730.

152. After State Farm discharged them from employment, relators were informed by E.A. Renfroe that E. A. Renfroe "accepted their resignations" (which had never been tendered) and E.A. Renfroe, working hand-in-hand with State Farm Mutual Insurance Company, discharged relators in retaliation for their protected concerted activity. Such conduct constitutes retaliation in that it is reasonably likely to deter employees from engaging in activity protected under the FCA. ***Moore v. California Institute of Technology Jet Propulsion Laboratory***, 215 F.3d 949 (8th Cir. 2000).

153. As a result of the retaliation against their protected concerted activities the relators have suffered damages including, but not limited to:

a. lost wages

b. lost fringe benefits

c. being "blacklisted" in the insurance industry such that no other employment is likely or possible.

d. they have incurred attorney's fees and expense in defending a frivolous claim asserted by Renfroe in the Northern District of Alabama.

e. They have suffered emotional distress.

f. They have had their personal computers hacked and information taken from their hard drives at home.

g. They have been followed, photographed, and surveilled and monitored electronically.

h. Their friends and colleagues have been questioned.

i. Former spouses have been interrogated for purposes of learning intimate details that might be used to embarrass and harass the relators.

j. E. A. Renfroe has disseminated untruthful information to its employees and agents in the hopes that this information would damage the reputations and work availability of the relators.

154. As a direct and proximate result of the conduct of the defendants, and each of them, the relators have sustained economic and noneconomic injuries, including but not limited to those set out in Paragraph 153.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally for a fair and reasonable amount to be determined by a jury, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

Respectfully submitted,

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DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues for which a jury is available.

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CERTIFICATE OF SERVICE

The undersigned certifies that on this 12th day of April, 2007, a copy of the foregoing Amended Complaint was served on the individuals below by first class mail, certified, return receipt requested to Dunn O. Lampton, US Attorney's Office, 188 E. Capitol St., Suite 500, Jackson, MS, 39201, and by placing the same in the United States Mail, first class postage affixed, certified, return receipt requested, and addressed to Alberto Gonzales, Esq., at the address below:

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United States Attorney
188 E. Capitol Street Ste 500
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FILED
MAY 29 2007
BY DEPUTY

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA, ex rel.
Cori Rigsby, et al.,

Plaintiff,

v.

STATE FARM INS. CO., et al.

Defendants.

Civil No. 1:06cv433WJG-JMR

FILED UNDER SEAL AND IN CAMERA

RELATORS' EMERGENCY MOTION TO LIFT THE SEAL AND REVOCATION OF CONSENT TO A STAY OF CIVIL PROCEEDINGS

COME NOW RELATORS, by and through their counsel, revoke their consent to a stay, and move this court for an order directing the government to make an intervention decision and barring such decision, lifting the seal so that relators can take the case forward, and in support thereof show as follows:

1. On May 22, 2007, Relators consented in a separate filing to the imposition of a stay in this case in order to allow the federal government to continue to pursue a criminal case against State Farm.
2. At the time the consent was sought by the Department of Justice, the Department had not provided complete information about the status of the case or the existence of other cases, and Relators consented on the basis of imperfect information. Had the relators known what they know now, they would have actively opposed the stay.

3. On May 22, 2007, Relators were contacted by attorney Alan Kanner of New Orleans, Louisiana, who informed them that he had a case filed against many of the same defendants as those in this action. See Exhibit "A" attached hereto.
4. On May 22, 2007, Relators, who had been previously unaware of the later-filed qui tam action by Kanner, sought confirmation of the matter from the Department of Justice.
5. The Department of Justice, which has known of the later-filed qui tam action since August 2, 2007, had not lifted the seal on that case to permit discussion with the relators in this case, having taken the position that the Kanner case was in Louisiana, and the Rigaby case was in Mississippi.
6. Apparently the Department of Justice sought to extend the seal in the Louisiana case, and similarly sought a stay to permit criminal investigation in that matter. Those efforts were rebuffed by Judge Beer who effectively told the Department of Justice that they had to "fish or cut bait" with respect to an intervention decision in that matter.
7. On or about May 22, the Louisiana court lifted the seal permitting the Louisiana relator's attorneys to prosecute a qui tam action (indeed, a later-filed qui tam action likely affected by the jurisdictional bar in 31 USC § 3730) independent of the government.
8. On May 22, 2007, Rigsby relators' counsel approached DOJ and explained that the actions in Louisiana stood to prejudice them because the Louisiana relators would be free to investigate, conduct discovery, and prosecute their action, with no restriction as to geography or types of claims, even though many of those claims would be barred by the Rigsby relator's prior-filed qui tam action.
9. The DOJ response was to suggest that we approach the DOJ in writing about a partial lifting of the seal which would permit the Rigsby Relators to discuss the action with the

Louisiana relators. DOJ indicated they would oppose lifting the stay or the seal in this case.

10. While Relator's counsel is well aware of the ongoing criminal probe, the relators having cooperated with the DOJ and state authorities in that probe, and while the relators do not wish to impair the government's ability to investigate and prosecute wrongs committed against the citizens of Mississippi, the simple fact is that the Rigsby relators are and will be severely prejudiced by the Louisiana suit going forward outside the seal.
11. Also, unknown to this Court, the Rigsby relators have been sued in Alabama under a hodgepodge of legal theories relating to their employment with E. A. Renfroe, an entity that is a current defendant in this case, and for which the relators have filed a retaliation claim in the instant action. The Renfroes brought the Alabama suit in Alabama, and not in Mississippi, precisely for the purpose of impairing and impeding the relators' ability to prosecute this qui tam.
12. While the seal has remained patent and this action has been investigated, the Rigsbys have been the subject of civil and criminal contempt motions and citations and have been required to appear and show cause, retain separate counsel in Alabama, have paid significant legal fees, and have not been able to mount their best and clearest defense to the charges: active cooperation and prosecution of a False Claims Act case.
13. The Rigsbys are now caught in a three-way legal pincer movement. On the one hand, the department of justice wishes them to remain silent as they investigate. The Renfroe defendants want their blood in Alabama, and their first-filed qui tam action has been hijacked by a later-filed case in Louisiana against many of the same defendants.

14. All the legal actions related to the wrongdoing alleged in the Rigsby complaint, including the Louisiana qui tam and the retaliatory litigation by Renfroe in Alabama, should be consolidated with this first-filed action in order to promote judicial economy. Yet, with this case under seal, this wholly appropriate motion to consolidate can never go forward because the Rigsbys cannot even discuss their case with Louisiana counsel.
15. If this Court lifts the seal on this case and permits the relators to move the case forward on their own, the need for a stay by the Department of Justice is diminished. The civil side of the Department of Justice can monitor the discovery by the relators, but such discovery being public and acquired from the defendants themselves should not impact the ongoing criminal probe. Currently the civil side of the Department of Justice cannot conduct investigations because the criminal side takes precedence. This removes the disability and permits the civil action to go forward.
16. Lifting the stay is within this court's power. 31 USC § 3730 permits extension of the seal, but the Court has the inherent power, as the Court did in Louisiana, to tell the Department of Justice that its time to either "dance with the one what brung you" or go home. Relators ask for a fair chance to litigate their claims in federal court – and no more than that.

WHEREFORE, for good cause shown Relators withdraw their consent to a stay and respectfully ask this Court to compel a decision on intervention by the Department of Justice, and if such decision should be negative, to lift the seal and permit the Relators to prosecute this action independently.

Respectfully submitted,

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ATTORNEYS FOR RELATORS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing memorandum has been sent via first-class mail, postage prepaid, to the parties noted below, on May 27, 2007.

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THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

FILED
MAY 29 2007

UNITED STATES OF AMERICA, ex rel.
Cori Rigsby, et al.,

Plaintiff,

v.

STATE FARM INS. CO., et al.

Defendants.

Civil No. 1:06cv433WJG-JMR

FILED UNDER SEAL AND IN CAMERA

RELATORS' MEMORANDUM IN SUPPORT OF THEIR EMERGENCY MOTION TO LIFT THE SEAL AND REVOCATION OF CONSENT TO A STAY OF CIVIL PROCEEDINGS

I. INTRODUCTION

Relators filed this lawsuit under the False Claims Act in April 2006, alleging that State Farm Insurance Company and Allstate Insurance Company, among others, defrauded the federal government by overbilling the National Flood Administrator for losses associated with Hurricane Katrina. The crux of the case is that these insurers paid policy limits on flood coverage without actually inspecting the damage to their insured's property, so that they could refuse to pay wind coverage later. Flood damages under the National Flood Insurance Program are a direct charge on the federal treasury. See *Wright v. Allstate Ins. Co.*, 415 F.3d 384, 386-87 (5th Cir. 2005).

The relators are insiders and true whistleblowers who worked for E. A. Renfroe and Company ("Renfroe"). Renfroe supplied adjuster services to State Farm Mutual Insurance Company. The Relators filed their action on the basis of their direct and independent knowledge

of actions by State Farm and its co-conspirator engineering companies to push off on the National Flood Administrator claims for wind damage that should have been paid by the Insurers. They filed their actions under seal and have at all times complied with the seal provisions.

The scheme pleaded by the Rigsbys was Katrina-wide. Although the relators in this case worked in Mississippi, relators pleaded on information and belief that the scheme also affected Louisiana. In Louisiana, different relators, Branch Consultants (See Exhibit "A") identified an ongoing pattern of pushing off wind claims onto Flood insurance, and filed a later qui tam on August 2, 2006. At no time prior to May 22, 2007, did the Department of Justice disclose to the Relators' counsel that the later-filed qui tam action was pending, was moving toward non-intervention status, or was going to be allowed to come out from under seal.

At about the time the Louisiana case was filed, Refroe filed a retaliatory action against the Rigsbys in Alabama for allegedly disclosing Renfore's trade secrets by giving the government and media outlets evidence of insurers' fraudulent flood insurance scheme. The Alabama action is currently in Judge William Acker's court. There are undecided issues with respect to an injunction and a potential civil and criminal contempt citation. Thus far, Relators ihave been unable to mount a defense under the False Claims Act or the provisions forbidding retaliation for filing a False Claims Act case because this case has been under seal and the Department of Justice expressed the view that the retaliation claim should be raised only in the context of the sealed case[1].

On or about April 30, 2007, the Department of Justice sent a copy of its stay request and asked relators to consent to a stay. Relators, unaware of the Louisiana case and the Branch

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[1] On May 22, 2007, Relators filed their first amended petition and brought a retaliation claim against Renfroe under seal in this action. They have never raised it in the Alabama action because of the seal provisions in this case.

Relator's efforts in that case to unseal it, believed it was in their best interests to continue to cooperate with the government. After insisting on a provision that would enable them to challenge the stay every four months, Relators agreed in a separately filed pleading on May 22, 2007. Later that same day Relators learned for the first time of the existence of the later filed action, learned that Judge Beers in Louisiana had let the matter go forward out from under the seal, and that the Relators in that action were prosecuting the action full bore. The Rigsbys took immediate steps to protect their interests in this litigation.

Relators spoke with DOJ and the DOJ position was that the criminal probe in Mississippi required the Rigsby case to remain under seal and required the imposition of a stay.

II. ARGUMENT AND AUTHORITY

Under 31 USC § 3730 , a False Claims Act complaint can be kept under seal for sixty days to permit the government time to decide whether to intervene. The purpose of the sealing requirement is to allow the United States an opportunity to evaluate the lawsuit and determine whether it is related to an ongoing criminal investigation such that is would be appropriate for the government to intervene. *See United States ex rel. Lujan v. Hughes Aircraft Co.*, 67 F.3d 242, 245 (9th Cir.1995).

If the Government declines to intervene in the action, the person bringing it has the right to conduct the action going forward. *See* § 3730(c)(3). Such person may try or settle the action, and is entitled to "an amount which the court decides is reasonable for collecting the civil penalty and damages." § 3730(d).

It is fairly common for the 60-day seal period to be extended, and indeed, in this case, the

stay period has been extended twice. Were this the only case on file, and were the Relators not at a strategic disadvantage with respect to later-filed litigation, the Relators likely would agree to extending the stay yet again to give the Government even more time to make an intervention decision. But here, there is real prejudice to the Relators if this case remains under seal or is stayed.

First, they will be unable to properly defend themselves against the retaliatory action filed in Alabama. Second, the relators in the later-filed Branch action could push their case forward and reach a settlement with the defendants there that bars this earlier-filed action (which is a jurisdictional bar to much of the Louisiana case).

In ***United States ex rel McCoy v. California Medical Review, Inc.***, 715 F.Supp. 967, 968, n. 1 (N.D.Cal.1989) the court noted that "[T]he court should carefully scrutinize any additional Government requests for extensions by evaluating the Government's progress with its criminal inquiry. The Government should not, in any way, be allowed to unnecessarily delay lifting of the seal from the civil complaint or proceeding of the qui tam litigation." See also, S.Rep. No. 99-345, 99th Cong., 2d Sess. 24, reprinted in 1986 U.S.Code Cong. & Admin. News 5266, 5290 [hereinafter Leg. Hist.]. ***McCoy***, at 969, noted that "[k]eeping the qui tam complaint under seal for the initial 60-day time period is intended to allow the Government an adequate opportunity to fully evaluate the private enforcement suit .... Leg. Hist. at 5289." The legislative history of section (b)(3) also indicates that "once the Government has elected whether to intervene under paragraph (2), unsealing of the complaint is virtually automatic." 715 F.Supp. at 969.

The complaint states an injury to the United States. Unnecessary delay causes injury to the Relator. ***U.S. ex rel. Fender v. Tenet Healthcare***, 105 F.Supp.2d 1228 (N.D. Ala. 2000).

The court, in ***U.S. by Dept. of Defense v. CACI Intern., Inc.***, 885 F.Supp. 80, 81 (S.D.N.Y.1995), specifically noted that 31 U.S.C. § 3730(c)(3) "makes no mention of the government's right to keep in camera information under seal indefinitely."

Clearly it is not in the interests of judicial economy, nor is it fair to the defendants to be litigating in three separate states and three separate courts. It certainly is not fair to the Rigsbys as the first whistleblower to be made to wait along the sidelines and watch helplessly as they are defamed in Alabama and beaten to the defendants in Louisiana. It is not fair to the Louisiana defendants to pour money and resources in to a False Claims Case that is jurisdictionally barred in large measure by this case[4].

The only equitable solution is to allow the relators in this case to force the government to make its intervention decision at this point and if the government refuses to do so, to permit the relators to take the litigation forward. Any other process effectively places the Relators here in an indefinite legal purgatory.

III. CONCLUSION

Relators have brought an action and acted in good faith to assist the government with its intervention decision by providing information, materials, evidence and testimony that provides an adequate basis for the government to decide whether to intervene or not. The evidence

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[4] Section 3730(b)(5)'s plain language unambiguously establishes a first-to-file bar, preventing successive plaintiffs from bringing related actions based on the same underlying facts. . . . Moreover, an exception free, first-to-file bar conforms with the dual purposes of the 1986 amendments [to the FCA]: to promote incentives for whistle blowing insiders and prevent opportunistic successive plaintiffs. *U.S. ex rel. Lujan v. Hughes Aircraft Co.*, 243 F.3d 1181, 1187 (9th Cir. 2001).

supplied in terms of documents and statements by Relators should provide more than adequate information to inform both an intervention decision as well as a prosecution decision.

The government has failed to keep a later-filed and jurisdictionally barred action from moving forward in a sister state, thereby placing the Rigsbys between the "rock" of the judicial seal in this case and the "hard place" of ongoing litigation in Louisiana and Alabama. The only equitable remedy for the Rigsbys is to force the government's intervention decision, and, barring an election to intervene, permit them to carry the case forward against the defendants.

Respectfully submitted,

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ATTORNEYS FOR RELATORS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing memorandum has been sent via first-class mail, postage prepaid, to the parties noted below, on May 29, 2007.

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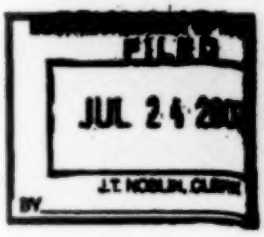
THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI



UNITED STATES OF AMERICA, ex rel. Cori Rigsby, et al.,	)	
Plaintiff,	)	Civil No. 1:06cv433WJG-JMR
v.	)	
	)	**FILED UNDER SEAL**
STATE FARM INS. CO., et al.	)	
Defendants.	)	

UNITED STATES' BRIEF IN OPPOSITION TO RELATORS' MOTION TO LIFT THE SEAL

The United States hereby opposes Relators' Motion to Lift the Seal on this case. The Government requests that the Court leave the seal in place so that the Government can move forward with a civil investigation of the Relators' allegations in this case. The Government is concurrently seeking a partial lift of the seal to disclose the existence of this case to the Court and the parties in a case filed in another district that is cited by Relators in their motion.

In the alternative, if the Court is inclined to lift the seal, the Government strongly requests that the Court stay civil discovery in this case, in order to avoid possible harm to an ongoing federal criminal investigation.

I. Background

In April 2006, the Relators filed the instant case in this Court. Because of a concurrent federal criminal investigation that apparently touches upon some of the same issues raised in this *qui tam* suit, the Government civil counsel assigned to this matter (the "Government Civil Attorneys") largely deferred a civil investigation, so as to avoid any possibility of causing harm to the criminal

investigation.[1] That deference was formalized into a stay of this case in May 2007. This case remains under seal.

In August 2006, a different relator filed, under seal, a *qui tam* suit called *United States ex rel. Branch Consultants LLC v. Allstate Ins. Co.*, Civ. No. 2:06-4091 (E.D. La.) ("La. Qui Tam"), in the United States District Court for the Eastern District of Louisiana, raising issues that arguably overlap with those of the instant case. In May 2007, the United States filed a pleading in the La. Qui Tam stating that it was unable at that time to make an adequately informed intervention decision, and so it was not intervening. That Court entered an Order unsealing that case and permitting the relator to proceed with the litigation. The Relator has served the various defendants with process, and responsive pleadings and/or dispositive motions will be due by August 6, 2007.

II. **The United States Requests That The Seal Remain In Place And That The Government Be Afforded Additional Time To Conduct Its Civil Investigation**

The United States requests that the Court leave the seal in this case in place, because the Government would like to have additional time to conduct a civil investigation of this matter. Unsealing the case would require the Government to make an immediate decision as to whether or not to intervene in this matter, *see* 31 U.S.C. § 3730(b)(4), and the Government is not adequately prepared to make that election at this time. As noted above, the Government Civil Attorneys have largely held back from conducting a civil investigation of this case thus far, out of deference to the ongoing criminal investigation, and so the Government's civil investigation is not yet complete.

At this time, however, the attorneys in charge of the Government's criminal investigation (the "Government Criminal Attorneys") have informed the Government Civil Attorneys that they may

[1] The Government Civil Attorneys have no personal knowledge of the nature and scope of the criminal investigation.

proceed with a civil investigation of the allegations in this *qui tam*. Additional time under seal is necessary for this civil investigation to proceed, and so the Government requests that the seal remain in place, either pursuant to the existing stay, or for an extension of the seal period for an additional six months.

The Government recognizes that Relators' counsel has concerns arising from the fact that the La. Qui Tam litigation has been unsealed. However, the Government has taken steps to address that concern: it has concurrently moved in this Court for a partial lift of the seal to disclose the existence of this case and the Relator's Complaint to the Court and the relator in the La. Qui Tam. This partial lift will allow dialogue between the Relators in this case and the La. Qui Tam relator, and that Court will be able to guide its handling of that case on a fully-informed basis.

The Relators' motion further contends that unsealing of this case is necessary to protect their interests in a separate case in federal court in Alabama in which the former employer of the Relators has filed suit against them over certain alleged disclosures of documents. The plaintiff in that case has expressly stated in its filings, however, that any disclosures that the Relators may have made to the federal Government are *not* part of the Alabama lawsuit. Therefore, the Government submits that leaving the seal in place over this case will not prejudice the Relators in the Alabama litigation.

III. In The Alternative, If The Court Is Inclined To Lift The Seal, The United States Requests That The Court Stay Discovery In This Case

In the alternative, if the Court is inclined to lift the seal in this matter, the United States strongly requests that the Court stay discovery in the litigation, to avoid harm to the ongoing criminal investigation.

The Government Criminal Attorneys have informed the Government Civil Attorneys that they are strongly opposed to this case proceeding forward in active litigation at this time. In their view, it would potentially cause serious harm to the criminal investigation for civil discovery to proceed, particularly insofar as conducting interviews or taking depositions of likely witnesses and other knowledgeable individuals. As noted above, the Government Civil Attorneys lack personal knowledge of the nature and scope of the criminal investigation. Should the Court wish to receive more details about the criminal investigation in order to evaluate the need for a stay of civil discovery after unsealing, the Government will arrange for a separate, *in camera* submission to the Court from the Government Criminal Attorneys.

IV Conclusion

For the foregoing reasons, the United States respectfully requests that this Court deny Relators' motion to lift the seal. In the alternative, if the Court is inclined to lift the seal, the Government strongly requests that the Court stay civil discovery in this case.

Respectfully submitted,

PETER D. KEISLER
Assistant Attorney General

DUNN O. LAMPTON
United States Attorney
Southern District of Mississippi

Dated: July 23, 2007

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing United States' Brief in Opposition to Relators' Motion to Lift the Seal and [Proposed] Order have been sent via first-class mail, postage prepaid, to the party noted below, on July 23, 2007.

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FILED
JUL 27 2007
J.T. NOBLIN, CLERK
BY

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA, ex rel. Cori Rigsby, et al.,

Plaintiff,

v.

STATE FARM INS. CO., et al.

Defendants.

Civil No. 1:06cv433WJG-JMR

FILED UNDER SEAL

UNITED STATES' EX PARTE APPLICATION
FOR PARTIAL LIFTING OF THE SEAL

The United States of America respectfully applies to this Court for a partial lifting of the seal in this case for the limited purpose of disclosing the complaint to the Court and, through counsel, the Relator in *United States ex rel. Branch Consultants LLC v. Allstate Ins. Co.*, Civ. No. 2:06-4091 (Eastern District of Louisiana) ("Louisiana Qui Tam"). The complaint in this later-filed case alleges violations of the False Claims Act, some of which are substantially the same as contained in the instant case. The Louisiana Qui Tam is no longer under seal and is publicly available.

The basis for the Government's application is contained in the memorandum of points and authorities in support of the application for partial unsealing of the complaint, which is filed herewith. A proposed order is also submitted for the Court's convenience.

Respectfully submitted,

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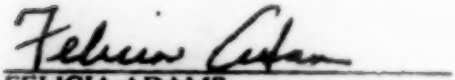
Assistant Attorney General

DUNN O. LAMPTON
United States Attorney
Southern District of Mississippi

Dated: July 25, 2007



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CERTIFICATE OF SERVICE AND NO SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing United States' Ex Parte Application for Partial Lifting of the Seal, the Memorandum in support of that application, and proposed Order have been sent via U.S. Mail, first-class, postage pre-paid, to the party noted below, on July 25, 2007.

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FILED
JUL 27 2007
J.T. NOBLIN, CLERK
BY _____ DEPUTY

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA, ex rel.
CORI RIGSBY, et al.

Plaintiff,

v.

STATE FARM INS. CO., et al.

Defendants.

Civil No. 1:06cv433WJG-JMR

FILED UNDER SEAL

MEMORANDUM IN SUPPORT OF THE UNITED STATES' EX PARTE APPLICATION FOR PARTIAL LIFTING OF THE SEAL

The United States of America respectfully submits this memorandum in support of its *ex parte* application for partial lifting of the seal in this case, for the limited purpose of disclosing the complaint to the Court and, through counsel, the Relator in *United States ex rel. Branch Consultants LLC v. Allstate Ins. Co.*, Civ. No. 2:06-4091 (Eastern District of Louisiana) ("Louisiana Qui Tam"). The complaint in this later-filed case alleges violations of the False Claims Act, some of which are substantially the same as contained in the instant case. The Louisiana Qui Tam is no longer under seal and is publicly available.

STATEMENT OF FACTS

Relators filed this action in April 2006, under the qui tam provisions of the False Claims Act ("FCA"), 31 U.S.C. § 3730. Relator alleged that the Defendants, who consist of insurance companies authorized by the Federal Emergency Management Agency to write federal flood insurance policies as well as claims-processing and engineering consultants to those insurance companies, defrauded the Government by deliberately mis-classifying damages from Hurricane Katrina. According to Relators, the Defendants falsely classified wind-related storm damages as water-related storm damages, so that the financial responsibility for those damages would be

shifted away from private homeowners' policies and onto federal flood insurance policies instead.

In August 2006, a different relator filed, under seal, a *qui tam* suit called *United States ex rel. Branch Consultants LLC v. Allstate Ins. Co.*, Civ. No. 2:06-4091 (Eastern District of Louisiana) ("Louisiana Qui Tam"), in the United States District Court for the Eastern District of Louisiana, raising issues that arguably overlap with those of the instant case. In May 2007, the United States filed a pleading in the Louisiana Qui Tam stating that it was unable at that time to make an adequately informed intervention decision, and so it was not intervening at that time but that it would continue to investigate and monitor the case. That Court entered an Order unsealing that case and permitting the relator to proceed with the litigation. The Relator has served the various defendants with process, and responsive pleadings and/or dispositive motions will be due by August 6, 2007.

ARGUMENT

Currently pending before the Court is a motion by the Relators to lift the seal on this case and to compel the Government to make its election regarding intervention. As set forth in the United States' concurrently-filed brief in opposition to that motion, the United States contends that such an unsealing would be inappropriate at this time and would compromise the Government's ability to conduct an adequate civil investigation of this case.

However, because the Court in the Louisiana Qui Tam has unsealed that case, the Government submits that it would be appropriate for this Court to enter an Order partially lifting the seal on the instant case to allow disclosure of the existence of this case and the Complaint to the Court and the Relator in the Louisiana Qui Tam. Because there is arguable overlap in the issues presented in each case, a partial lift would allow dialogue between the Relators in this case and the Louisiana Qui Tam relator, and that Court will be able to guide its handling of that case on a fully-informed basis.

It should be noted that the Government has not yet taken a position as to whether or not there is sufficient overlap between the two complaints as to invalidate the later Relator's statutory fitness to serve as a Relator. It may be that the instant Relators and the later Relator will be able to reach some form of mutual accommodation that would permit both to remain active participants in these cases, provided that such arrangement is also acceptable to the United States and both Courts. The instant Relators and the later Relator may also be able to offer helpful input as to the procedural handling of these two cases, with guidance as well from the Court in the Louisiana Qui Tam. Some form of consolidated handling of these cases may be possible, which would foster the conservation of limited judicial resources. Under these circumstances, partial unsealing of the instant complaint for the limited purpose of allowing the United States to inform the later Relator about the pendency of this action is appropriate.

CONCLUSION

For the foregoing reasons, the Government requests that the Court grant the application for a partial unsealing of the complaint in this action, in order to permit the United States to disclose the existence of the instant action and the Complaint with the Court and the Relator in the Louisiana Qui Tam.

Respectfully submitted,

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TESTIMONY

October 20, 2005

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ACTING DIRECTOR AND FEDERAL INSURANCE ADMINISTRATOR

DEPARTMENT OF HOMELAND SECURITY

HOUSE FINANCIAL SERVICES

HOUSING AND COMMUNITY OPPORTUNITY

FLOOD INSURANCE PROGRAM

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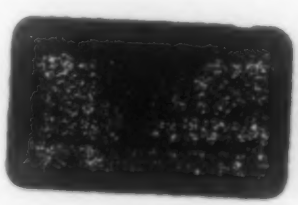

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copyright or other notice from copies of the content.Statement of David I. Maurstad Acting Director and Federal Insurance Administrator, Mitigation Division Federal Emergency Management Agency Department of Homeland Security

Committee on House Financial Services Subcommittee on Housing and Community Opportunity

October 20, 2005

Good morning Chairman Oxley, Ranking Member Frank, and Members of the Committee. I am David Maurstad, Acting Mitigation Division Director and Federal Insurance Administrator for the Federal Emergency Management Agency (FEMA) within the Department of Homeland Security I appreciate the opportunity to appear today before the Committee to discuss the status of the National Flood Insurance Program (NFIP), particularly after the devastating effects of Hurricanes Katrina and Rita.

FEMA s Mitigation Division manages the NFIP - the cornerstone of the Nation s strategy to prepare communities for flood events. When I accepted the position of Acting Director of Mitigation, the NFIP became one of my most important responsibilities and a top priority During my tenure, I have used my 25 years of experience in the insurance industry to help guide the successful implementation of this program. This year s hurricane season represents a significant challenge for the NFIP

Hurricane Katrina was a monumental flooding event that was further exacerbated by the impact of Hurricane Rita. The magnitude and severity of flood losses related to these storms are unprecedented in the history of the NFIP The challenges these storms have presented to the Mitigation Division - in terms of flood insurance claims handling, floodplain management, and mitigation planning and grants management - have never been encountered, on this scale, before. Let me provide a context for what the NFIP, and the Nation, is facing. Since the NFIP's inception in 1968, $15 billion has been paid out to cover more than 1 3 million losses. In 2001, Tropical Storm Allison resulted in the NFIP's first billion-dollar storm with over 30,291 claims received totaling $1.1 billion. Just last year the 2004 hurricane season resulted in over 75,022 claims totaling close to $2 billion dollars paid out in NFIP coverage.

We estimate that Hurricanes Katrina and Rita will result in flood insurance claims that significantly exceed the highest number of claims filed from any single event in the NFIP's history, and well more than triple the total number of claims filed in 2004 Katrina and Rita-related NFIP claims could exceed $22 billion, far surpassing claims paid in the entire history of the NFIP. These claims from those

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whose homes and businesses have been damaged or destroyed by Hurricane Katrina are not a new obligation - they are the result of a legal promise we made to these homeowners and business owners when Congress passed the National Flood Insurance Act of 1968 and subsequent revisions.

Homeowners and business owner agreed to pay premiums, communities agreed to adopt building codes to mitigate flood dangers, and the federal government agreed to provide insurance coverage to policyholders after a disaster. Every single one of these claims represents someone who has taken the responsible course of action by purchasing flood insurance and paying premiums to the government.

We not only have a legal obligation to honor our commitments, but we have a moral obligation to provide the coverage we ve promised to provide. Since the tragic events of the past six weeks, I have traveled to the Gulf Coast to meet and work closely with the Insurance Commissioners from the affected areas. After seeing the devastation first-hand and listening to State and local government representatives, insurance industry representatives, and flood victims, we have developed a post-disaster mitigation strategy that will carry us forward in the days, months, and years ahead. Now, more than ever, we must build on these already strong partnerships and remain engaged in developing and implementing innovative approaches and solutions to meet the many challenges we will face as we help the Gulf Coast rebuild stronger, safer, and smarter. Today, I will focus on the National Flood Insurance Program's financial status, and highlight several aspects of our post-disaster mitigation strategy. This strategy aggressively provides critical flood insurance information to State and local officials, adjusters, home and business owners, and policyholders in the affected areas so that they may rebuild a stronger, less vulnerable Gulf Coast.

NFIP Financial Status and Related Issues

Congress authorized NFIP in 1968 following a series of hurricanes in the mid-1950's and 1960's. At that time, affordable flood insurance was not generally available from the private insurance industry.

The concept was that the Federal government would make flood insurance available to the people if local governments would adopt and enforce measures to make future construction safer from flooding.

Today, more than 20,100 communities in all 50 States and U.S. Territories voluntarily participate in the NFIP, representing about 95 percent of all properties in the Nation s Special Flood Hazard Areas. The NFIP provides these communities with maps that identify flood risks and help local government decision makers determine how flood-prone areas are used and how buildings in these areas should be constructed. These maps, which we are in the process of modernizing and making more accessible to homeowners, are also used to determine flood insurance rates. As previously stated, $15 billion has been paid out since the NFIP's inception to

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cover more than 1.3 million losses Many of these claims occurred as a result of smaller flood events where no other Federal disaster assistance was available. Yet these property owners endured as much of an individual loss as those in larger events. In this regard, studies have indicated that insurance is the most efficient and equitable method of providing disaster assistance.1 Since 1986, the NFIP has been financially self supporting for the average historical loss year. During periods of high losses, consistent with the law, the NFIP has borrowed from the U.S. Treasury. These loans have been repaid, with interest, from policyholder premiums and related fees, and at no cost to the Nation s taxpayers. Last year s claims activity represented a significant loss year for the NFIP, and the program exercised its borrowing authority in the amount of $225 million. This was only the fourth time since 1990 that the Program was in a borrowing position. The NFIP currently insures in excess of $800 billion in assets.

This covers more than 4.7 million policies for homes, businesses, and other non-residential property owners. Each year the NFIP collects approximately $2 billion in premiums and fees. Hurricane Katrina was a catastrophic event. More than 225,000 flood insurance claims are likely to be filed. The NFIP provides insurance at actuarial (risk-based) rates, including consideration for catastrophic losses, for newer construction, with approximately 76 percent of policyholders paying actuarial rates. For structures built prior to the mapping and imposition of NFIP floodplain management requirements less than full-risk rates are charged because flood risks were not fully known when these structures were built. Approximately 24 percent of policyholders pay less than full-risk rates. It is important to note the NFIP has never been capitalized. Our authority to borrow from the Treasury is an essential part of the NFIP's financing for heavy loss years. Because of Hurricane Katrina, on September, 20, 2005, the President signed into law H.R. 3669, which increased the NFIP's borrowing authority by $2 billion.

Current flood insurance claims projections for Hurricanes Katrina and Rita indicate additional borrowing authority will be 1 necessary. The total payout for Katrina alone may be as much as 10 times the highest annual loss, and 20 times the program's average historical annual losses. As it has become increasingly apparent that Katrina/Rita-related claims will exceed the new borrowing authority by a substantial margin, the Administration will request that $5 billion be added to this authority. This stop-gap' measure should allow sufficient borrowing authority to cover claims through mid- to late November, and also would enable us to work with this Committee and others to complete meaningful program reform recommendations. Such recommendations will be based on FEMA's long-term commitment to reduce the Nation s flood risks, as well as the NFIP's comprehensive mitigation principles to:

-- Protect the NFIP's integrity by covering existing commitments and liabilities;

-- Charge policyholders fair and actuarially sound premiums by phasing out subsidized premiums;

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-- Increase NFIP participation incentives and improving mandatory purchase enforcement where warranted;

-- Increase risk-awareness among homeowners and consumers by improving information quality; and

-- Reduce risk through proven mitigation practices and exploring new mitigation opportunities.

Protecting the NFIP's Integrity - Streamlining the NFIP Claims Process

Based on the first principle above, it is my job to ensure that, consistent with statute and regulations, flood insurance claims are handled fairly, equitably and in a timely manner Given the catastrophic impact these events have had in the Gulf, a critical first step was to implement a simplified and streamlined claims process to help policyholders settle their claims quickly. Utilizing state-of-the-art aerial imagery, up-to-date water-depth data, and information from extensive underwriting files, the Write-Your-Own (WYO) insurance companies are rapidly identifying insured properties that have been washed off their foundations, have had standing water in them for an extended period, or have only pilings or concrete slabs remaining. Under such circumstances, adjusters are waiving proof of loss requirements and fast-tracking claims up to the maximum insured value. Using these streamlining methods, we expect to substantially reduce our normal adjustment times from what one would normally see under such extreme circumstances. To ensure all claims are handled quickly and fairly, we are closely monitoring the performance and procedures of the WYO carriers that are using these Katrina- specific processes.

Phasing Out Subsidized Premiums by Addressing Repetitive Loss Properties

As Gulf Coast reconstruction gets underway, and elements of the second principle - phasing out subsidized premiums - become salient, FEMA will continue seeking ways to remove repetitive loss properties (properties with two or more $1,000 flood insurance claims within a 10-year period) from the NFIP policy base. FEMA will work with the States, local governments, and Community Rating System (CRS) communities to mitigate these properties through elevation, relocation, flood proofing, localized flood control, and acquisition/demolition. The Alabama and Mississippi areas affected by Katrina contain about 2,200 and 2,500 repetitive loss properties respectively (as of October 5, 2005)

The Louisiana Parishes affected by Katrina contain nearly 20,000 repetitive loss properties. Title I of the 2004 Flood Insurance Reform Act authorized FEMA to establish a Severe Repetitive Loss pilot program to address properties that flood more frequently and severely than the repetitive loss properties I just described. I am pleased that the FY 2006 Department of Homeland Spending bill that Congress recently passed authorized FEMA to transfer up to $40 million from the National Flood Insurance Fund to mitigate these properties. Louisiana Parishes affected by

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Katrina contain nearly 2,000 Severe Repetitive Loss Properties. FEMA has designed a Severe Repetitive Loss Pilot and we are looking forward to implementing that pilot.

Increasing Program Participation through Incentives

The NFIP's foundation embodies the principle of increasing incentives for communities to participate in the Program, and a significant part of FEMA s Gulf Coast Mitigation Strategy looks to encourage communities to rebuild stronger. Our Community Rating System will play a major role in this effort. CRS provides insurance discount incentives to communities that are actively reducing their flood risk by implementing comprehensive floodplain management criteria that go beyond the NFIP's minimum requirements CRS communities that continually reduce their flood risks receive flood insurance premium discounts for their citizens representative of the degree of risk reduction achieved. Over 66 percent of the NFIP's policy base resides in CRS communities, and 3 1 million NFIP policyholders residing in these communities receive over $150 million in discounts annually. There are currently 68 CRS communities in the Gulf Coast area. Our goal is to increase that number as our Gulf Coast area participating communities become engaged in a process that focuses on rebuilding stronger and smarter

Improved Information to Increase Risk Awareness

Increasing risk awareness among homeowners and consumers with improved, succinct information also is one of the NFIP's basic principles. FEMA, through an aggressive education and outreach campaign, is continuously designing and upgrading informational material to increase the public's awareness of flood risks and to effectively keep our policyholders informed. For instance, immediately following Hurricane Katrina, we distributed two documents to policyholders to help them through the claims process: The NFIP Summary of Coverage and the Flood Insurance Claims Handbook. With the Chairman's permission, I would like to submit copies of these documents for the record. These easy-to- understand documents have been available in our Joint Field Offices, Disaster Recovery Centers, and Flood Response Centers - as well as in Town Meetings - since September 1, 2005. I have personally handed these materials to State Insurance Commissioners in Alabama, Mississippi, and Louisiana, and we have distributed an informational CD containing these documents and other ready-to-print materials to field offices, State and local government offices, and the media. Also, recognizing that a significant number of policyholders were displaced, FEMA has implemented several systems to reach policyholders early in the claims process. These systems have been particularly useful to those who are cut off from their usual sources of information and communication. For example, in the days immediately following Katrina, we cross-referenced a National Processing Service Center report of all callers who applied for disaster assistance and indicated they had flood insurance. We matched the addresses of damaged properties to NFIP policy addresses and connected insurance companies to their flood insurance policyholders. This system will now become

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standard operating procedure in future flooding events. It has enabled the WYO Companies to reach out to their NFIP policyholders and help them immediately when they needed it most. This innovative system, and others, reflect FEMA s initiative to reach out to policyholders as early in the claims process as possible, with easy-to- understand information, recognizing that the sooner claims are settled, the sooner people can start rebuilding their lives and communities. For comprehensive information on the NFIP and flood insurance, policyholders can access our FloodSmart website at www.floodsmart.gov.

Reducing Future Risks through the NFIP

As the focus shifts from disaster response to disaster recovery, areas impacted by Hurricanes Katrina and Rita will begin considering the opportunities for rebuilding a less vulnerable Gulf Coast. However, the overwhelming desire to rebuild immediately must be balanced with the need to rebuild wisely.

Effective planning - based on updated risk assessments, sound floodplain management, solid mitigation principles, and applicable environmental management and historic preservation considerations - is a primary principle of our mitigation and NFIP strategies, and a critical first step in the Gulf`s recovery process. We are teaming up with our Federal, State, and local partners to (1) provide communities with the resources they need to get the job done right; and (2) integrate NFIP code compliance assistance and incentives into our mitigation grant processes. (1) Providing Resources FEMA is committed to working with its partners to provide communities with state-of-the-art tools and resources they need to make informed planning and rebuilding decisions. We are working closely with our Federal partners, such as the Army Corps of Engineers and the National Oceanographic and Atmospheric Administration, to gather and use the best available data for developing advisory information and NFIP recovery maps. We are also working with the Environmental Protection Agency and the Department of Health and Human Services on cleanup issues related to reconstruction. Finally, we are engaged with the Heritage Emergency Task Force to ensure that mitigation strategies in the Gulf region adequately consider historic preservation and related matters. Our Mitigation Assessment Teams are in the field gathering data on the performance of buildings and infrastructure. These teams are working closely with State and local officials to recommend improved building design and construction techniques, advocate new building codes and enforcement measures, and suggest mitigation activities that will improve community-wide disaster resistance. Overall, FEMA, along with its Federal, State, community, and private sector partners, is making sure that technology, information, and resources are expeditiously provided to the Gulf coast and properly used during the rebuilding process. (2) Increased Cost of Compliance and Mitigation FEMA also is coordinating with States, local governments, and CRS communities to integrate Increased Cost of Compliance funds - money for NFIP policyholders to bring their structures up to existing flood-related building codes - into all relevant mitigation efforts.

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Finally, our Federal, State, and local government partnership will ensure that all Gulf-area mitigation proposals are based on sound risk assessments and approved mitigation plans. Sound floodplain management planning and regulations save this country an estimated $1.1 billion in prevented flood damages annually, and structures built to NFIP criteria experience 80 percent less damage than structures not built to such standards. FEMA is determined to help Gulf Coast communities make reconstruction decisions that are based not only on sound floodplain management, risk assessment, and mitigation planning principles, but on higher protection standards. Creating stronger and safer communities reduces loss of life and property, enables individuals and localities to rapidly recover from future events, and lessens the financial impact on State, Tribal and local governments, as well as the United States Treasury.

Conclusion

In the wake of Hurricanes Katrina and Rita, FEMA is committed to supporting the Gulf Coast s recovery. In the near term, this will require ensuring adequate funding to fulfill our commitment to our NFIP policyholders. For the longer term, it will require working closely with the Gulf Coast s affected States, local governments, communities, and private-sector entities to support a reconstruction effort that results in safer places to live, work, and do business.

I would be pleased to answer any questions Committee Members may have.

---- INDEX REFERENCES ----

NEWS SUBJECT: (Local Government (1LO75); Natural Disasters (1NA67); Government (1GO80))

INDUSTRY: (Financial Services Products (1FI16); Business Services (1BU80); Online & Electronic Publishing (1ON84); I.T. in Government (1IT22); Financial Services (1FI37); I T. Vertical Markets (1IT38); I.T in Financial Services (1IT24); Publishing (1PU26); I.T. in Insurance (1IT17); Insurance Software (1IN05); I T (1IT96); Environmental Solutions (1EN90); Insurance Liability (1IN26); Internet (1IN27); Security (1SE29); Financial Services Convergence (1FI45); Security Systems & Services (1SE50); Homeland Security (1HO11); Insurance Losses (1IN47); Insurance (1IN97))

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SURANCE CLAIMS HANDBOOK; FLOOD INSURANCE REFORM ACT; FLOOD RESPONSE; FLOODSMART; FY; HR; HERITAGE EMERGENCY TASK FORCE; HOUSE FINANCIAL SERVICES; HOUSING; HUMAN SERVICES; HURRICANE KATRINA; HURRICANES KATRINA; INCREASE; INCREASE NFIP; INCREASING; INCREASING PROGRAM PARTICIPATION; INSURANCE COMMISSIONERS; JOINT FIELD OFFICES DISASTER RECOVERY CENTERS; KATRINA; LLC; LOUISIANA; LOUISIANA PARISHES; MITIGATION ASSESSMENT TEAMS; MITIGATION FEMA; NATIONAL FLOOD INSURANCE ACT; NATIONAL FLOOD INSURANCE FUND; NATIONAL FLOOD INSURANCE PROGRAM; NATIONAL OCEANOGRAPHIC AND ATMOSPHERIC ADMINISTRATION; NATIONAL PROCESSING SERVICE CENTER; NFIP; NFIP CLAIMS PROCESS; NFIP FINANCIAL STATUS; NFIP SUMMARY OF COVERAGE; PROGRAM; REDUCING FUTURE RISKS; RESOURCES FEMA; RITA; SPECIAL FLOOD HAZARD AREAS; STATE; STATE INSURANCE COMMISSIONERS; TESTIMONY; TRANSCRIPT; TREASURY; TRIBAL; TROPICAL STORM ALLISON; US TERRITORIES; WYO; WYO COMPANIES) (Acting Director; COMMUNITY OPPORTUNITY; Creating; DAVID I. MAURSTAD; David Maurstad; Division; Division Director; FEDERAL INSURANCE; FLOOD INSURANCE; Oxley; Title; Utilizing)

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DEPARTMENT OF HOMELAND SECURITY

Office of Inspector General

INTERIM REPORT

Hurricane Katrina:
A Review of Wind Versus Flood Issues

OIG 07-62

Jul. 2007

Office of Inspector General

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

JUL 26 2007

Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the Homeland Security Act of 2002 (*Public Law 107-296*) by amendment to the Inspector General Act of 1978. This is one of a series of audits, inspections, and special reports prepared as part of our oversight responsibilities to promote economy, effectiveness, and efficiency within the department.

This report assesses the Federal Emergency Management Agency's (FEMA) oversight of the Write-Your-Own companies performance in adjusting National Flood Insurance Program flood claims in the wake of Hurricane Katrina. We were directed in the Department of Homeland Security Appropriations Act, 2007 to determine whether damages from wind were improperly attributed to flooding. We examined relevant documentation and interviewed FEMA and insurance officials to assess the flood insurance adjustment process. This is an interim report to provide Congress and FEMA with our findings and conclusions to date. We are continuing our review with a focus on insurers' adjustments of claims for wind damage under homeowners' coverage.

The recommendations herein were developed to the best knowledge available to our office and were discussed in draft with those responsible for implementation. It is our hope that this report will result in improvements to the National Flood Insurance Program. We express our appreciation to all who contributed to the preparation of this report.

Richard L. Skinner
Inspector General

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Abbreviations

FEMA	Federal Emergency Management Agency
DHS	Department of Homeland Security
NFIP	National Flood Insurance Program
WYO	Write Your Own Companies
FIRM	Flood Insurance Rate Map
CAT	Catastrophe Adjusting Firms
OIG	Office of Inspector General

Interim Report

Hurricane Katrina:
A Review of Wind Versus Flood Issues

Executive Summary

The Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295), directed the Department of Homeland Security, Office of Inspector General, to investigate whether, and to what extent, insurance companies participating in the National Flood Insurance Program (NFIP) – referred to as Write-Your-Own Companies (WYOs) improperly attributed damages from Hurricane Katrina to flooding rather than to windstorms covered under homeowner policies or wind insurance pools.

Our objective for this interim report was to determine whether NFIP claim records included indications that participating insurance companies attributed wind damage to flooding. We reviewed a sample of flood claim files in Mississippi, analyzed legal opinions, and quality control reports prepared by the Federal Emergency Management Agency (FEMA) on selected claims. In addition, we interviewed officials from FEMA, the Mississippi Coast Coliseum and Convention Center in Biloxi, Mississippi, insurance association representatives, insurance adjusters, WYO officials, and other experts in the field. Our sample revealed no evidence that wind damages were improperly attributed to flooding. Our conclusion is based on:

- Review of 98 flood claim files and analysis of evidence in those files;
- Interviews with 20 flood adjusters, representatives of insurance associations, and WYOs;
- Discussions with FEMA quality control adjusters and review of the quality control reports;
- Interviews with homeowners included in our sample; and
- Review of appeals and complaint records.

Although nothing came to our attention during our limited review to indicate that WYOs attributed wind damage to flooding, we cannot rule out the possibility that it occurred because of complicating factors such as:

- Difficulty in distinguishing between wind and flood damage, especially when there is nothing left of the property except a foundation (slab);
- Language in homeowners' insurance policies that can exclude coverage if flooding occurs concurrent with wind or other causes of damage;
- Adjusters either working for the WYOs or for the companies hired by WYOs, which creates the perception of a conflict of interest;
- FEMA oversight of WYOs is limited.

We plan to issue a final report that will include an analysis of wind claim files and other evidence.

FEMA officials have generally agreed with our findings and recommendations included in this interim report.

Background

Hurricane Katrina made landfall on the Mississippi coast at 10:00 a.m. on August 29, 2005. For the coastal areas in Mississippi, estimates for wind gusts ranged from 70 to 121 miles per hour, and storm surge reached a maximum height of 28 feet. Property damage was caused both by the hurricane force winds and the storm surge flooding. The Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295), directed the Department of Homeland Security, Office of Inspector General, to investigate whether, and to what extent, insurance companies under the WYO program improperly attributed damages from Hurricane Katrina to flooding covered under the NFIP rather than to windstorms covered under homeowner policies or wind insurance pools.

Homeowner insurance policies typically cover wind but not flood damage. WYOs are private sector insurance companies authorized by NFIP to sell flood insurance. WYOs have no financial exposure when damage is caused by flood because the federal government, through the NFIP, reimburses WYOs for claims they pay. Although the NFIP does not have direct control over the WYOs, the WYOs agree each year to terms and conditions with FEMA on various compliance and business issues. This agreement provides, among other things, that WYOs will comply with written standards, procedures, and guidance issued by FEMA. For additional background on the NFIP, see Appendix A.

Our review objective was to determine whether NFIP claim records included indications that participating insurance companies attributed wind damage to flooding. We reviewed a sample of flood claim files in three Mississippi counties. We examined adjusters' comments and calculations relating to damage caused by flood as well as other evidence in the claim files such as photographs and correspondence between the insured and WYO. We also analyzed legal opinions, reinspection reports and NFIP complaint files. We interviewed officials from FEMA and the Mississippi Coast Coliseum and Convention Center, insurance association representatives, insurance adjusters, WYO officials, and other experts. It is important to note that we did not have the same access to the WYOs' records of wind claims as we did to the flood claims that are funded by the government. The wind claim files are a likely place to find indications that WYOs may have attributed wind damage to flooding. We have, however, issued administrative subpoenas for those records. We are issuing this interim report to inform Congress and FEMA of our findings to date. We will issue a final report after we have received and

reviewed the WYOs' records of wind claims. Further details on the scope of our review are included as Appendix B.

Results of Review

Our review of sample flood claims did not reveal evidence that the NFIP was used to subsidize wind damage. However, there is little evidence in flood claim files to determine whether payouts from the NFIP were fair and equitable for damages caused by both wind and water affecting the same structure. We continue to have questions with respect to wind damage settlements and have issued administrative subpoenas to the WYOs in our sample for claim files. In addition, we are analyzing whether WYOs were consistent in pricing selected categories of damages.

Was Wind Damage Attributed to Flooding?

Storm surge (flooding) was the primary cause of damages sustained along the Mississippi coast, but high wind velocity before the surges in water also caused damage. The central question is whether WYO companies, in settling claims, may have improperly attributed damage caused by wind to flooding in order to avoid liability under the standard homeowner's policy. This question is especially relevant in situations where the same WYOs held both homeowner and flood policies for the same insured property. Following is a summary of our review of the flood claims:

- We reviewed 98 flood claim files to determine whether they contained any indication that wind damage might have been attributed to flooding. The NFIP provided us the flood files, but did not provide wind claim files, which are maintained separately by the WYOs. Several of the flood claim files contained references to, and photographic evidence of, wind damage; however, with the exception of two files, there was no information on how much wind damage occurred, the cost of the damage, or whether wind claims were filed. There was no indication that wind damage was attributed to flooding or that flood insurance paid for wind damage. Information on select attributes of the files reviewed is shown in Appendix C.

- We interviewed 20 flood adjusters who did some of the damage investigations for the properties in the files we reviewed to determine how they conducted their inspections. Most adjusters were not involved in any wind damage assessments and felt they were not under pressure from WYOs to attribute wind damage to flooding. The process used by NFIP adjusters is described in Appendix D. They based their damage determinations on the physical evidence at the scene. Representatives from two associations representing the insurance industry were not aware of any instances of wind damage being attributed to flooding. Eleven representatives of the WYOs in our sample explained that they have plans to address catastrophic events such as

Hurricane Katrina and that they base adjustments on physical evidence at the damaged property. In total loss cases where only a foundation (slab) remained, it was often difficult to determine whether wind or flood was the cause of damage. Several WYO representatives allocated a portion of the loss to wind by using an evaluation of damage to the neighborhood, engineering support, analysis of wind data, aerial photographs, interviews, analysis of debris, and extent of the damage to trees.

- We also met with General Adjusters contracted by FEMA and reviewed reinspection reports to determine whether they had identified indications that wind damage was attributed to flooding. Reinspections are conducted by a team of General Adjusters as a quality control step in the flood adjustment process. Adjusters reviewed a sample of flood claim files to determine whether the adjustments conform to NFIP standards. There were 599 reinspections performed on Hurricane Katrina flood claims in Mississippi, and we reviewed 135 of the reports. None of the reports contained evidence that wind damage had been attributed to flooding. See Appendix E for more information on the reinspection process.

- We interviewed 36 homeowners included in our sample of flood claims to determine whether they believed their insurance companies improperly attributed wind damage to flooding. Payments for wind damage were received by 32 of these homeowners. Four of the 36 did not have insurance that covered wind damage. The amounts received ranged from $630 to $500,000. In 29 cases, those receiving wind settlements told us they were satisfied with the amounts paid under their homeowner's policy. There were 7 homeowners who were not satisfied with the amount of settlement for wind. Some of the reasons for their lack of satisfaction include: (1) they did not feel they received payment for damages caused by rain leaking through damaged roofs, (2) payments did not reflect increased costs of labor and materials after the storm, and (3) detached buildings were not covered.

- We reviewed NFIP appeals and complaints for assurance that there was no evidence indicating that WYOs attributed wind damage to flooding. Although one would not expect to find such complaints in flood claim files, we wanted to include all sources of information to which we had access. When policyholders had complaints about wind damage being attributed to flooding, they would most likely be documented in the WYOs' records of wind damage. There was only one appeal related to Hurricane Katrina. An appeal is a formal NFIP process where policyholders can seek a second review of their flood claim. There were 18 complaint letters filed with the NFIP. One included a complaint that the insurance company paid a flood claim, but denied a wind claim. NFIP responded that the flood claim was paid at policy limits and that the homeowner's frustration over the WYO's denial of wind coverage was not within the scope of the NFIP complaint handling process.

Our review of complaints revealed that none had a relationship to the issue of whether the NFIP paid for damages caused by wind.

Complicating Factors When Wind and Flood Occur Together

Although nothing came to our attention during our limited review to indicate that WYOs attributed wind damage to flooding, we cannot rule out the possibility that it occurred. Flood adjusters were professional and based their determinations on the physical evidence they observed. However, there are several complicating factors that contribute to the perception that WYOs might have attributed wind damage to flooding.

- First, it may be difficult to distinguish between wind and flood damage when the two perils occur concurrently, and especially when there is nothing left of the property except a foundation (slab). WYO flood adjusters do not generally identify or quantify damages that may have been caused by wind. The NFIP Claims Adjusters Manual does not direct adjusters to document whether wind was also involved in damages to a structure. According to data available, winds played a role in damages to the Mississippi coast. For example, hurricane force winds were present up to 4 hours prior to the storm surge. Experts told us that such a differential could contribute toward significant damage caused by wind. Appendix F graphically shows the time difference and impact of winds and surge.

- Second, insurance policies are difficult to understand and often misunderstood. Most insurance contracts are drafted to exclude flood damage. A typical homeowner's insurance policy is a contract with no negotiation and few people read or understand its contents. The insurance industry is primarily regulated at the state level. Policy forms are reviewed and approved by state agencies. Homeowners' policies historically have excluded flood damage. As many in the Gulf Coast have learned, most homeowners' policies have standard flood exclusions effectively denying coverage no matter what caused the flood.

  Homeowners' policies normally contain language, which explicitly excludes flood damage, regardless of how the damage was caused. This provision is referred to as an "anti-concurrent causation" clause and these clauses have been standard in homeowner policies for decades. As with any catastrophic event, Hurricane Katrina has produced numerous lawsuits. One of the key issues raised in this private litigation between insurers and policyholders is the flood versus wind dispute – whether the standard homeowner's policy with an anti-concurrent causation clause will cover damage that resulted from Hurricane Katrina. Resolution of these cases will depend on extensive evidence of causation and interpretations of policy language. The following is a typical anti-concurrent causation clause for water damage:

We do not insure for loss caused directly or indirectly by any of the following excluded events. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

Water damage, meaning:
Flood, surface water, waves, tidal water, tsunami, overflow of a body of water, or spray from any of these, all whether driven by wind or not.

This language preempts coverage when, for example, an otherwise covered peril, such as hurricane force winds, causes flooding, an excluded peril.

The Mississippi Attorney General filed suit on behalf of the state against several major insurers seeking a ruling that the insurers must pay flood damages because hurricane winds caused the flooding. The suit alleged that the policy exclusions are ambiguous and should therefore not be enforced. The suit also alleged unfair trade practices on the part of the insurers representing that policies provided comprehensive hurricane coverage.

- A third factor adding to a perception that wind damage was improperly attributed to flood is that adjusters are either working for WYOs or for companies hired by WYOs, and many people believe this creates a conflict of interest. The WYO has no financial exposure for flood damage, so some adjusters might favor finding flood damages rather than wind damage to reduce the WYO's financial exposure. Although nothing came to our attention to indicate that adjusters attributed wind damage to flooding, the appearance of a conflict persists.

- Finally, FEMA's oversight of the WYOs is limited. Under FEMA regulations, the entire responsibility for providing a proper adjustment for both combined wind and water claims and flood-alone claims is the responsibility of the WYO company. FEMA's agreement with the WYOs provides that claim adjustments shall be binding upon FEMA. FEMA needs to increase its oversight role of the WYOs and that increased oversight can be accomplished by amending its agreement with the WYOs to make better use of its two quality control functions. Reinspections permit FEMA to take another look at the adjusters' work; however, they focus exclusively on adjustment of the flood claim. They could be expanded to include wind damage information. FEMA also performs operational reviews of WYOs. These operational reviews focus on flood insurance claims, underwriting, customer service, marketing, and litigation activities. These reviews also could be broadened to include wind damage information. In addition, the NFIP Claims Adjusters Manual provides no guidance on ensuring that wind damage is not attributed to flooding. Expanding the scope of these quality

control measures could help FEMA to ensure that the WYOs are not improperly attributing wind damage to flooding.

Conclusion and Recommendations

FEMA needs to increase oversight over damage claims that involve both wind and water on the same structure. Our limited review of the flood claims indicated that payouts on flood claims were timely and complied to NFIP terms. However, there is little evidence in flood claim files to determine whether payouts were fair and equitable for damages caused by both wind and water affecting the same structure. In addition, FEMA did not maintain documentation indicating the total damage to a structure and how much was attributable to flood and wind, nor is it required by the NFIP. As a result, NFIP oversight focused primarily on whether the flood claim was correctly adjudicated with little or no consideration for wind damage as a contributing factor. Under the current process, it is difficult to determine whether the NFIP paid a higher percentage or the entire damage claim involving both perils.

We recommend that the Administrator, Federal Emergency Management Agency:

1. Require Write Your Own Insurance Companies to document and make available to the NFIP the rationale and methodology for calculating flood and wind damage when there is evidence that both perils contributed to the damage, and revise the NFIP Claims Adjuster Manual to reflect these new requirements;
2. Expand the reinspection process to include a review of and determination that flood and wind damage on the same structure was settled in a fair and equitable manner to ensure that wind damage was not paid under the flood policy; and
3. Provide clear and concise guidance for adjusting total loss claims after catastrophic events when structures are completely destroyed by wind and water.

As discussed above, we have issued administrative subpoenas for WYO insurance companies records providing both wind and flood coverage. We plan to corroborate the documentation and assertions made in our review to determine whether and to what extent damages were improperly attributed to flooding rather than wind. We also plan to determine whether unit pricing for like materials paid under flood and wind claims were consistent and reasonable. We will issue our final report upon our completion of our wind claim analysis.

Discussion with Management

FEMA officials are in general agreement with our findings and recommendations with respect to this interim report. They did comment that recommendation #2 would require FEMA to review wind file data in conjunction with the flood claim file and that they currently have no authority to collect and analyze the related wind damage claims data on

the property receiving a flood claim payment to validate its accuracy. They have stated that options for corrective actions will be examined. We will furnish the officials the results of our additional review effort on wind claims and consistency of pricing of damages prior to our final report.

Appendix A

Overview of NFIP

The National Insurance Act of 1968 mandated the creation of a National Flood Insurance Program. There had been attempts at passing similar legislation since the 1950s; however, the destruction brought about by Hurricane Betsy in 1965 provided the momentum for Congress to make it a reality. Prior to 1968, relief for people affected by flood was limited to disaster assistance.

NFIP enables property owners in participating communities to purchase flood insurance in exchange for state and local floodplain management to reduce future flood damages.

The National Insurance Act of 1968 prescribes three main objectives to be accomplished by the NFIP:

- Provide affordable flood insurance to qualified homeowners,
- Reduce flood damages through floodplain management regulations, and
- Identify and map the Nation's floodplains.

The Act also establishes two categories of properties:

- Pre-FIRM (Flood Insurance Rate Map): Buildings constructed prior to the initial flood map for the community. These buildings are entitled to subsidized flood insurance rates, as long as the communities where they are located comply with floodplain management regulations.
- Post-FIRM: Buildings constructed (or substantially improved) after the initial flood map for the community, or after December 31, 1974, whichever is later. The Act mandates that full actuarial rates, reflecting the true flood risk, be charged on these structures.

In creating the NFIP, Congress found that a large flood insurance program with "*large scale participation of the Federal Government, and carried out to the maximum extent practicable by the private insurance industry, is feasible and can be initiated.*" In keeping with this purpose, FEMA has contractual arrangements with 95 private insurance companies to sell policies and adjust and process claims, in what is called the "Write-Your-Own" (WYO) program, to differentiate it from the "NFIP Direct" program, or policies written directly by the NFIP. Approximately 97 percent of flood policies are written by WYOs.

In view of limited participation in the program, in 1973 Congress passed the Flood Disaster Protection Act, which strengthened NFIP's outreach efforts by:

- Restricting federal aid in non-participating flood prone communities.

Appendix A

- Introducing the Mandatory Flood Insurance Purchase Requirement, that mandated lenders require evidence of flood insurance in areas deemed to be flood hazard areas.

In 1994, Congress amended the 1968 and the 1973 Acts via the National Flood Insurance Reform Act, requiring, among other things:

- Increased compliance by mortgage lenders with the mandatory purchase requirement,
- Increased flood coverage amounts, and
- Updates to flood maps every 5 years.

In 2004, Congress enacted the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, which required, among other things:

- A 5-year pilot program to deal with repetitive loss properties, including federal funding for the purchase of "severe repetitive loss properties."
- Establishment of regulatory appeals process for claimants.

Appendix B

Purpose, Scope, and Methodology

The Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295), directed the Department of Homeland Security, Office of Inspector General, to investigate whether, and to what extent, insurance companies under the WYO program pursuant to section 1345 of the National Flood Insurance Act of 1968 (42 U.S.C. 4081) and subpart C of part 62 of title 44, Code of Federal Regulations, improperly attributed damages from Hurricane Katrina to flooding covered under the National Flood Insurance Program (NFIP) rather than to windstorms covered under homeowner policies or wind insurance pools.

Specifically, our review objective was to determine whether NFIP records contained evidence of WYO companies attributing wind damage to flooding.

We interviewed FEMA and NFIP Bureau and Statistical Agent personnel, as well as experts in the field of wind and flood damage assessment. In addition, we interviewed 20 adjusters and 11 officials from the 12 WYOs in our sample of claims, and representatives from two insurance associations. We interviewed 36 homeowners to determine whether they received wind settlements and their satisfaction with the amount received. We limited our review to flood insurance claims paid through NFIP, since we do not have the same access to wind claims under homeowner policies written by private insurers as we do to NFIP flood claim files. However, we have issued administrative subpoenas to the insurance companies in our sample to receive wind claim files. We selected a judgmental sample of 100 flood insurance claim files from the 3 coastal counties in Mississippi – Hancock, Harrison, and Jackson – because the wind versus flood issue was most prevalent in that area. The sample consisted of flood claims in areas of high surges and low surges, with some settlements paid at the policy limits and some other settlements paid at less than the policy limits. We also reviewed a sample of reinspections performed on Hurricane Katrina-related flood claims in the state of Mississippi. The primary purpose of this review was to determine if any of the reinspections identified situations where wind damages were attributed to flooding.

We conducted fieldwork in Washington, DC; at the NFIP Bureau and Statistical Agent facilities in Lanham, Maryland; in Mississippi; and at Clemson University in South Carolina. We conducted our audit from December 2006 to May 2007 under the authority of the Inspector General Act of 1978, as amended, and according to generally accepted government auditing standards.

Appendix C

Attributes of Claim Files Reviewed		
	Number of Sample	Percentage of Sample*
Wind Damage Paid by NFIP	0	0%
Primary Residence	77	78.6%
Paid at Policy Limit	69	70.4%
Foundation (slab) Only	33	33.7%
Reinspected by NFIP	4	4.1%

*Based on reviewing 98/100 claims. Two files were not provided due to pending litigation.

Building Attributes		
	Number of Sample	Percent of Sample
Pre-FIRM*	75	76.5%
Post-FIRM*	23	23.5%
Total	98	100.0%
Number of Stories*		
1	68	69.4%
1.5	3	3.1%
2	27	27.5%
Total	98	100%
Age of Property*		
0 - 10 years	21	21.4%
11 - 20 years	12	12.2%
21 - 30 years	9	9.2%
31 - 40 years	28	28.6%
41 - 50 years	12	12.3%
Over 50 years	16	16.3%
Total	98	100%

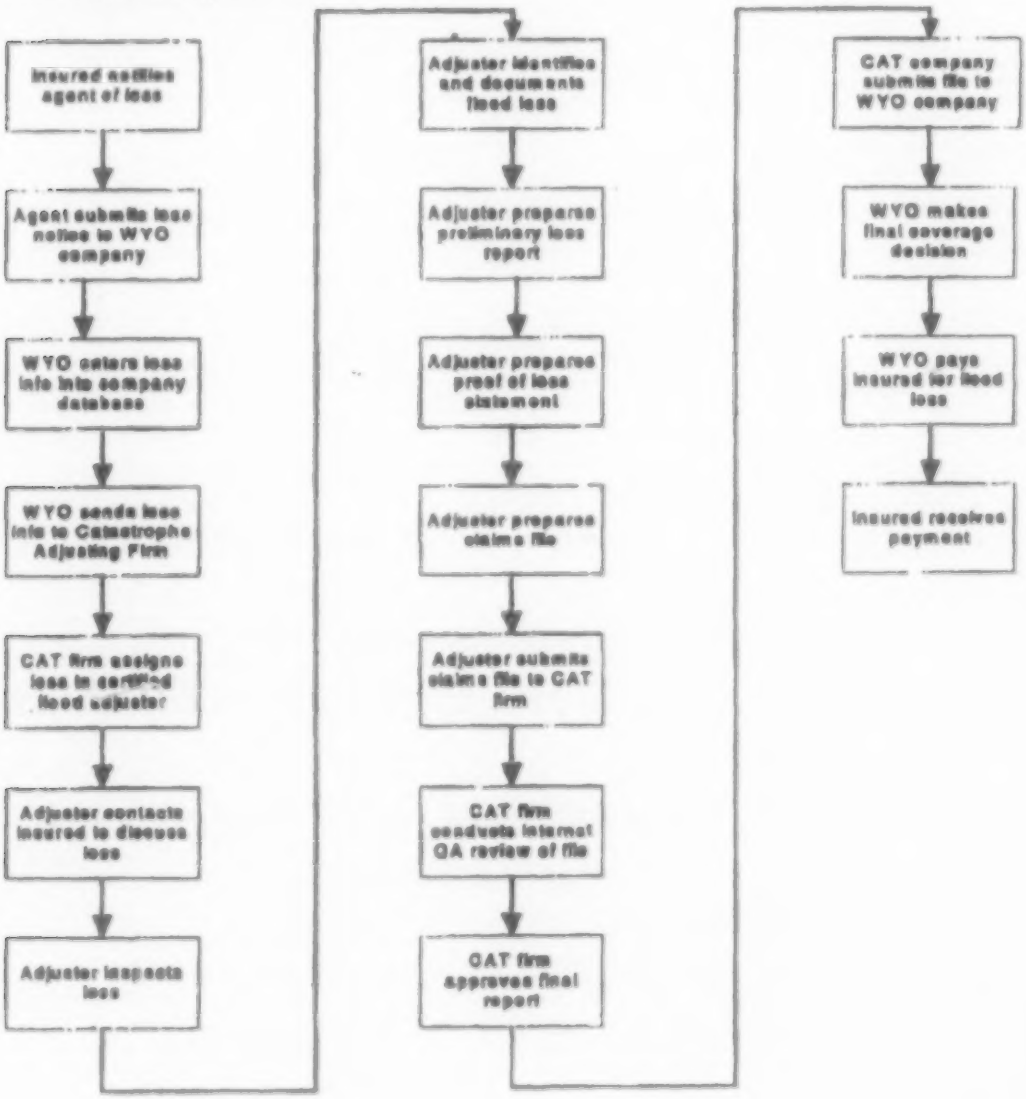
*Based on reviewing 98/100 claims. Two files were not provided due to pending litigation.

Appendix D

NFIP Claims Adjustment Process

NFIP uses federal employees, contractors, and private sector organizations to process flood claims. Contractors and private sector organizations consist of insurance carriers, flood claims processing companies, catastrophe adjusting firms (CAT), and information technology management companies that support core NFIP databases and systems.

The following flowchart highlights the key activities involved in a standard NFIP flood claim adjustment process.



Appendix D

A reason for using a standard process is to ensure that similar loss scenarios are assessed and adjusted similarly by different adjusters, regardless of experience, capabilities, or company affiliation. Flood adjusters are required to be certified by the NFIP, but this requirement is waived in the case of adjusters employed directly by one of the flood insurance carriers. FEMA requires that uncertified adjusters receive appropriate supervision and direction from certified or more experienced adjusters.

Appendix E

NFIP Reinspection Process

NFIP uses a claims adjustment reinspection process ("reinspection") to review a judgmentally selected sample of claims adjustments after each flood event. The purpose of this reinspection is to determine whether the adjustment process conformed to NFIP standards and guidelines. It is also used to identify cases of over- or underpayments of damage settlements or fees. The review is conducted by experienced claims adjusters (General Adjusters) employed by NFIP's Bureau and Statistical Agent.

Reinspections are selected in two ways. First, NFIP conducts routine reinspections of a judgmentally selected sample of claims adjustments on an ongoing basis. Special request reinspections are also conducted in the event of an appeal or formal complaint of an adjustment, or in any case when more information is needed regarding a specific adjustment.

According to the reinspection database maintained by the NFIP's Bureau and Statistical Agent, 599 reinspections were performed on Hurricane Katrina-related flood claim adjustments in Mississippi. Reinspection documentation includes a reinspection report, a detailed itemization of the results of the reinspection against a standard NFIP reinspection checklist, and comments from the General Adjuster who performed the reinspection.

Appendix F

Overview of Meteorological Data

The graphs shown on the following pages are the product of a computer simulation by WorldWinds, Inc., using data gathered from FEMA, National Oceanic and Atmospheric Administration's National Weather Service, U.S. Geological Service, National Aeronautics and Space Administration, U.S. Army Corps of Engineers, as well as other sources.

These graphs demonstrate, for specific coordinates, that winds reached speeds between 90 and 110 mph prior to maximum water surge in Hancock, Harrison, and Jackson Counties. The high winds preceding the flooding indicate that there was damage to structures from both wind and flooding. The Saffir-Simpson Hurricane Scale estimates potential property damage and flooding expected along the coast from hurricane landfall. Wind speed is the determining factor in the scale. Below are summaries of the estimated damages to property based on the following hurricane categories:

- **Category One Hurricane:** Winds of 74-95 mph. Storm surge is generally 4-5 feet above normal. No damage to building structures. Damage primarily to shrubbery, trees, and unanchored mobile homes.

- **Category Two Hurricane:** Winds 96-110 mph. Storm surge is generally 6-8 feet above normal. There is some roofing material, door, and window damage to buildings. Considerable damage to shrubbery and trees with some trees blown down. Considerable damage to mobile homes, poorly constructed signs, and piers.

- **Category Three Hurricane:** Winds of 111-130 mph. Storm surge is generally 9-12 feet above normal. Some structural damage to small residences and utility buildings. Damage to shrubbery and trees with foliage blown off and large trees blown down. Mobile homes and poorly constructed signs are destroyed.

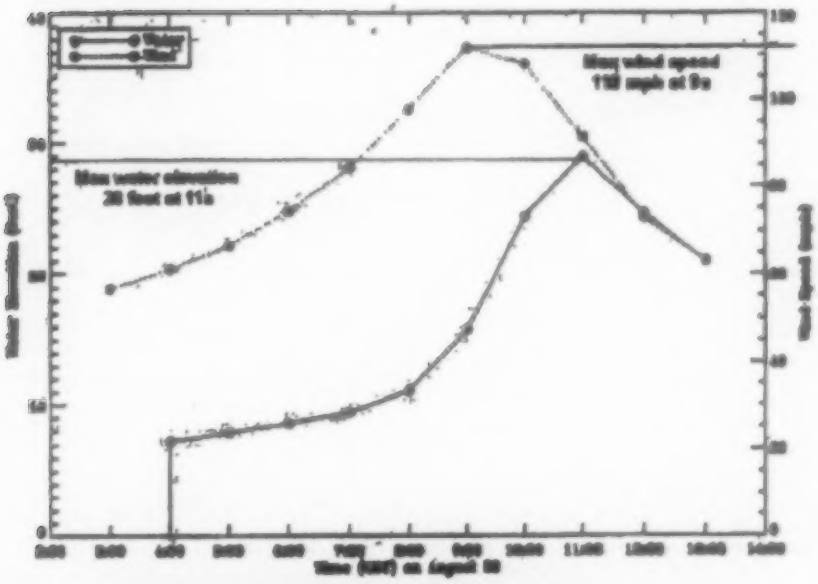
- **Category Four Hurricane:** Winds of 131-155 mph. Storm surge is generally 13-18 feet above normal. Some complete roof structure failures on small residences. Shrubs, trees, and all signs are blown down. Complete destruction of mobile homes. Extensive damage to doors and windows.

- **Category Five Hurricane:** Winds greater than 155 mph. Storm surge is generally greater than 18 feet above normal. Complete roof failure on many residences and industrial buildings. Some complete building failures with small utility buildings blown over or away. All shrubs, trees, and signs blown down. Complete destruction of mobile homes. Severe and extensive window and door damage.

Appendix F

Hancock County

Bay Saint Louis, MS
Coordinates: 30.32, 89.27

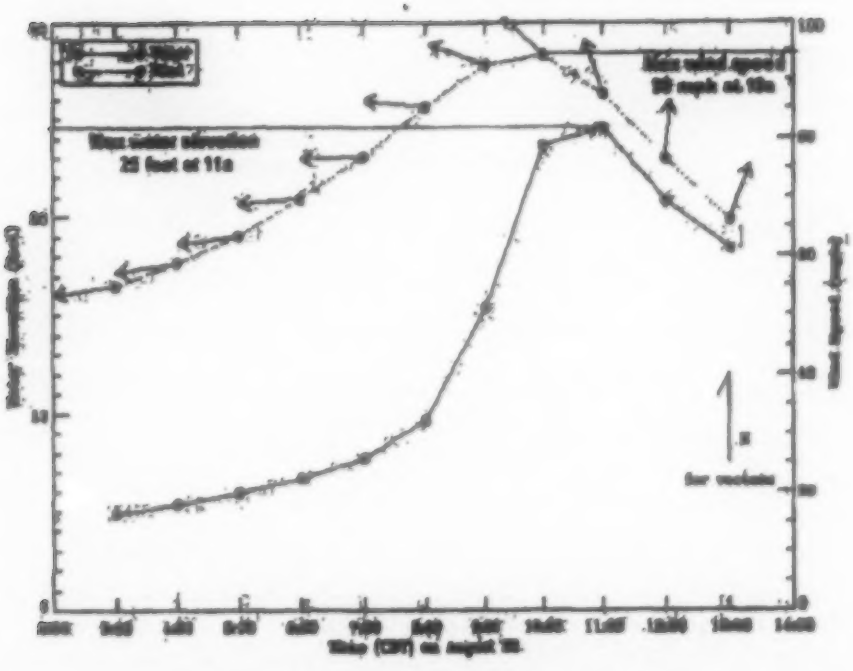


Note: **Wind over 100mph before water reaches 10 ft.**
Wind speeds remain above hurricane force for 4 hours before water peaks.

Appendix F

Harrison County

Biloxi, MS
Coordinates 30.41, 88.9



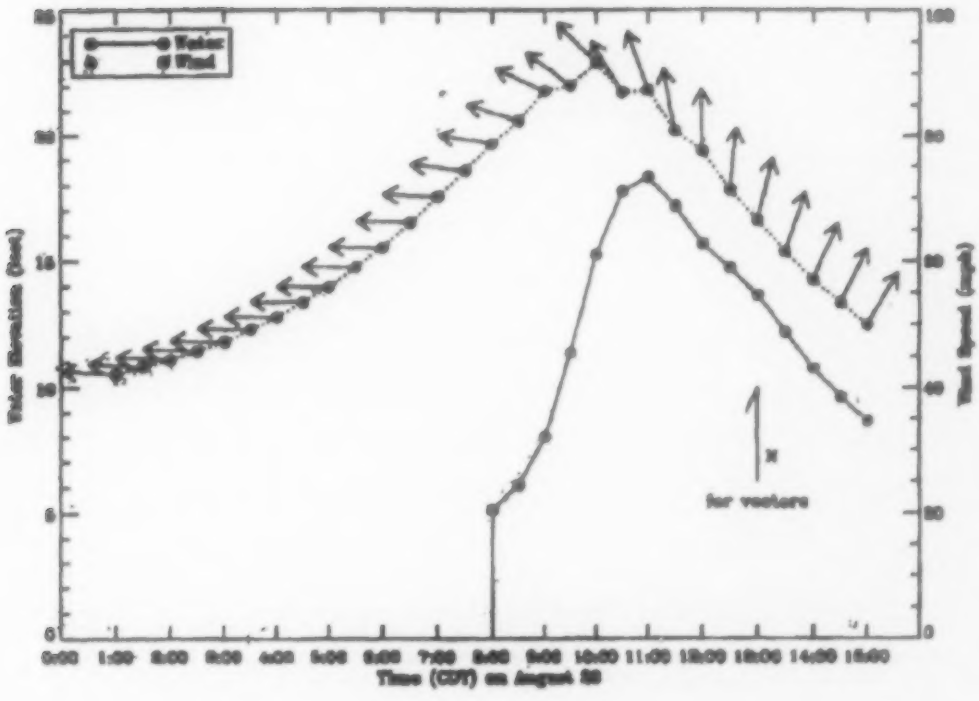
Note: Wind speeds sustained above hurricane force for 4 hours before water peaks.

Appendix F

Jackson County

Ocean Springs, MS

Coordinates: 30.43, 88.84



Note: Wind speeds sustained above hurricane force for 4 hours before water peaks

Appendix G

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February 28, 2007

HURRICANE KATRINA INSURANCE ISSUES - Part 1

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TESTIMONY

February 28, 2007

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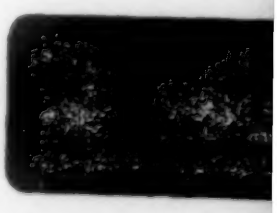

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copyright or other notice from copies of the content.Statement of David I. Maurstad Director and Federal Insurance Administrator, Mitigation Division Federal Emergency Management Agency Department of Homeland Security

Committee on House Financial Services Subcommittee on Oversight and Investigations

February 28, 2007

Good afternoon Chairman Watt, Ranking Member Miller, and Members of the Subcommittee. I am David Maurstad, Mitigation Division Director and Federal Insurance Administrator for the Federal Emergency Management Agency (FEMA) within the Department of Homeland Security. I appreciate the opportunity to appear today before the Committee to discuss the status of the National Flood Insurance Program (NFIP) This afternoon I would like to provide a context for how the NFIP has moved forward since Hurricanes Katrina, Rita and Wilma made landfall in 2005. As you know, the NFIP was established in 1968 to make affordable flood insurance available in communities that would adopt and enforce measures to make future construction safer from flooding. From 1968 through 2004, a total of $15 billion had been paid out to cover more than 1.3 million claims.

After the June 2004 signing of the Flood Insurance Reform Act (FIRA04), the United States experienced back-to-back catastrophic hurricane seasons. The 2004 hurricane season resulted in over 75,000 claims totaling a record payment of over $2 billion dollars. That record fell in 2005 when Hurricane Katrina resulted in claims to date totaling over $16.3 billion - over eight times that of 2004 and surpassing, by over a billion dollars, the total amount the NFIP had paid out since the Program began. Last year I informed the House Financial Services Committee and the Senate Banking Committee that we expected the total NFIP payout (claims and associated expenses) for the 2005 hurricane events to be over $23 billion. We have reexamined that projection based on actual claims and payments to date, and lowered the estimate for claims payments, related adjustment expenses, and interest paid on borrowing to approximately $21 billion.

From 1986 until the 2005 hurricane season, the NFIP has been self- supporting. During periods of high losses, consistent with the law, the NFIP has borrowed from the U.S. Treasury. The authority to borrow from the Treasury is an essential part of the NFIP`s financing design by providing the necessary resources in those years where claims exceed average annual historic loss levels. This authority enables the program to borrow limited amounts from the Treasury on occasions when income is not sufficient to cover claim payments and related costs. The loans from this period have been repaid, with interest, from policyholder premiums and related

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fees.

The large number of claims and severity of flood losses from the 2004 and 2005 hurricane seasons are unprecedented in the history of the NFIP. The challenges these storms have presented to the Mitigation Division, particularly the 2005 hurricane season, - in terms of flood insurance claims handling, floodplain management, flood hazard mapping and mitigation planning and grants management - have never been encountered, on this scale, before.

Program claims have been resolved expeditiously. Only five months after Hurricanes Katrina, Rita, and Wilma struck the Gulf Coast, the NFIP had resolved over 70 percent of the 241,000 claims filed from these events. By the summer of 2006, we had resolved nearly all of our 2005 hurricane season flood claims - a volume that far exceeded the highest number of claims filed from any single event in the NFIP's history, and more than triple the total number of claims filed in 2004. Our industry partners - our Write-Your-Own (WYO) insurance companies, as well as claims adjusters and agents - have more than fulfilled their responsibility to help NFIP policyholders begin to rebuild their lives. In the wake of the worst natural disaster the Nation has ever experienced, we have continued to fulfill the promises made to NFIP policyholders and communities. FEMA is proud of the NFIP's ability to provide solid customer service to our flood insurance policyholders.

This testimony will address the NFIP's financial status as well as the following matters: (a) the new materials and innovative approaches the NFIP has used to find, help, and inform Gulf Coast policyholders; (b) how the NFIP expedited adjustment and claims processes after Katrina, and the quality control inherent in such efforts; (c) the NFIP technical information available to Gulf Coast communities to help them rebuild wisely; (d) the opportunities the NFIP is pursuing to fundamentally strengthen the Program's financial underpinnings; and (e) six issues/questions articulated in the February 20, 2007, letter from the Honorable Melvin L. Watt, Chairman of the House Subcommittee on Oversight and Investigations, inviting FEMA to testify at this hearing.

NFIP Financial Status

The extremely active 2004 and 2005 hurricane seasons raised the Nation s awareness of the flood risks we all face; consequently, the NFIP's policy base has grown dramatically. The NFIP has over 5.4 million policies for homes, businesses, and other non- residential property owners insuring in excess of $1 trillion in assets. The NFIP now collects more than $2 billion annually in premiums and fees. As previously stated, from 1968 (the NFIP's inception) through 2004, the Program paid out $15 billion to cover more than 1.3 million claims. Many of these claims occurred as a result of smaller flood events that did not rise to the level of a Presidential disaster declaration and for which Federal disaster assistance was not available. Yet many of these property owners endured as much of an individual loss as those in larger events. In this regard, studies have indicated that when

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insurance premiums fully reflect underlying risks, insurance is the most efficient and equitable method of providing disaster assistance.

It also is important to note that NFIP rate schemes are not designed to cover catastrophic events or years. Congress intended the National Flood Insurance Program to cover claims for the average historic loss year, plus expenses associated with administering the Program. A vast majority of the NFIP's 2005 claims, for instance, resulted from the largest levee failure in the Nation s history, an event not envisioned during the NFIP's inception, but one that must be considered as we work to strengthen this important Program. The NFIP provides insurance at actuarial (risk-based) rates for newer construction, with most policyholders paying full actuarial rates. Structures built prior to the mapping and implementation of NFIP floodplain management requirements are considered pre-Flood Insurance Rate Map (FIRM) buildings. The NFIP charges the owners of these pre-FIRM structures - which make up 24 percent of all NFIP policies - heavily discounted rates on the first $35,000 of their structure's insured value, and full risk-based rates for the remaining insured value because adequate flood risk information did not exist when the structures were built. Those with NFIP policies covering pre-FIRM structures are paying, on average, only 40 percent of a full risk-based premium, with the NFIP considering the remaining 60 percent as forgone revenue - a loss that is not passed on to other NFIP policyholders.

As mentioned earlier, we now anticipate that total borrowing for the 2005 hurricanes will exceed $20 billion. Annual interest on such borrowing will be approximately $800 million. The 2005 flooding events were of a magnitude far beyond the ability of policyholder premiums to cover. Since Hurricane Katrina struck the Gulf Coast in August 2005, Congress has increased the NFIP's borrowing authority three times to the present limit of $ 20.775 billion. This additional borrowing authority has been a critical element of the NFIP's ability to effectively serve our policyholders, allowing FEMA to resolve almost all of the Katrina, Rita, and Wilma claims received to date. However, under current loan obligation arrangements - with the NFIP needing new loans at least every six months to cover semi annual interest payments - it is unlikely that the Program will ever be able to retire its debt.

Innovative Materials and Approaches to Help Gulf Coast Policyholders

In the aftermath of Katrina, the 2004 Flood Insurance Reform Act was instrumental in our ability to effectively inform and help Gulf Coast policyholders, and continues to be a catalyst for programmatic success and improvement. We began implementing Reform Act changes during the 2004 hurricane season, and we improved our delivery during the 2005 hurricane season by distributing informative materials, designing innovative post- disaster systems, and implementing important training initiatives.

New Materials

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Increasing risk awareness among homeowners and consumers with improved, succinct information is one of the NFIP's basic principles, and is an important element of the 2004 Flood Insurance Reform Act. FEMA, through an aggressive education and outreach campaign, is continuously designing and upgrading informational material to increase the public's awareness of flood risks and to effectively keep our policyholders informed.

For instance, immediately following Hurricane Katrina, we distributed two documents to policyholders to help them through the claims process: The NFIP Summary of Coverage and the Flood Insurance Claims Handbook. These easy-to-understand materials, developed in concert with our insurance industry partners, are being distributed to all policyholders at the time of initial purchase, policy renewal, and at the time a claim is filed. In addition, FEMA and the WYOs distributed these materials in our Joint Field Offices, Disaster Recovery Centers, and Flood Response Centers - as well as in Town Meetings - soon after Katrina made landfall. I personally handed these materials to State Insurance Commissioners in Alabama, Mississippi, and Louisiana. Also, we, along with the WYOs, distributed an informational CD containing these documents and other ready-to- print materials to field offices, State and local government offices, and the media.

Innovative Post-Disaster Systems

Also, recognizing that a significant number of Gulf Coast policyholders were displaced, FEMA implemented several systems to reach policyholders early in the claims process. These systems were particularly useful to those who are cut off from their usual sources of information and communication. For example, in the days immediately following Katrina, we cross-referenced a National Processing Service Center report of all callers who applied for disaster assistance and indicated they had flood insurance. We matched the addresses of damaged properties to NFIP policy addresses and connected insurance companies to their flood insurance policyholders This helped the WYO Companies to reach out to their NFIP policyholders and help them immediately when they needed it most. This system will now become standard operating procedure in future flooding events.

Training of Agents Who Sell Flood Insurance

Flood insurance training for insurance agents is a high priority for the NFIP Reform Act training requirements were published in the September 1, 2005 Federal Register, and we continue to work with the States as well as the insurance industry and related associations to inform insurance companies and agents of these requirements. To date, 31 states have implemented training requirements for agents who sell flood insurance. Additionally, FEMA has recently brought new flood insurance training material on-line. Now, insurance agents in 27 States can earn three hours of continuing education credit for successfully completing this new web-based course.

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These innovative materials, systems, and training initiatives carry out the provisions and intent of FIRA04, and the desire of the NFIP to reach out - with easy-to-understand information - to policyholders as early in the claims process as possible, recognizing that the sooner claims are settled, the sooner people can start rebuilding their lives and communities

Expedited Adjustment and Claims Processing After Katrina

Given the unprecedented number of claims, widespread destruction, and the difficulties encountered by adjusters accessing the devastated areas, FEMA is especially appreciative of our insurance industry partners as we developed and implemented streamlined adjustment and claims processes designed to effectively serve policyholders.

After Hurricane Katrina, then Rita, then Wilma, the NFIP's insurance company partners utilized state-of-the-art aerial imagery, up-to-date water-depth data, and detailed information from extensive underwriting files to rapidly identify insured properties that had been washed off their foundations, had standing water in them for an extended period, or had only pilings or concrete slabs remaining. FEMA also waived proof of loss requirements and fast-tracked claims up to the maximum insured value. These streamlining methods substantially reduced our normal adjustment times from what the NFIP would normally see under such extreme circumstances. Furthermore, these processes provided mechanisms for rapidly resolving claims within 60 days of the event. The NFIP estimates that over 17,200 claims have been handled through our expedited claims process.

It is important to note that the NFIP's streamlined adjustment processes and claims expediting are not performed at the expense of quality control. From the beginning, FEMA general adjusters and claims staff have been in the field re-inspecting sample sets of claims in order to ensure the integrity of the process. This is in addition to our regular adjuster monitoring we perform through operation reviews, biennial audits, audits for cause, audits by the Office of the Inspector General, and Congressional inquiries.

Helping Communities Rebuild Wisely

In addition to ensuring that the NFIP's streamlined adjustment and claims processes are effective, transparent, accurate, and fair, FEMA, the Mitigation Division, and the NFIP are doing all they can to make sure that communities recover and rebuild wisely. As such, FEMA is strongly encouraging Gulf Coast communities to assess and utilize all relevant, current technical resources and information available - including updated flood hazard information - in all planning, mitigation, and rebuilding efforts.

Hurricanes Katrina and Rita had significant impacts on flood hazards in coastal Mississippi and Louisiana. As citizens in these areas continue to recover, updated flood hazard information is being provided to help guide reconstruction. For in-

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stance, FEMA has provided Mississippi and Louisiana with Advisory Base Flood Elevations (ABFEs) to help rebuilding efforts in region's most heavily affected counties and parishes. Presently, 14 Mississippi communities have adopted ABFEs or higher regulatory elevations. In Louisiana, 36 communities have adopted ABFEs or higher regulatory elevations.

The release of ABFE guidance is for advisory purposes, and will not increase NFIP flood insurance premiums or requirements. However, when ABFEs are provided to affected communities - and the information will not be developed after every event - FEMA requires those communities to use the guidance for all rebuilding activities that involve FEMA mitigation and public assistance grant programs. There is simply no sense in spending tax dollars to rebuild to outdated standards only to have similar damage when the next storm comes along.

Strengthening the Program

Significant flood events have played a major role in the NFIP's evolution: the Program was created when Hurricane Betsy carved a swath of destruction through the Gulf Coast in 1965; Tropical Storm Agnes in 1972 provided the impetus for the mandatory purchase requirements to increase participation in the program; and the 1993 Midwest Flood was the catalyst behind the National Flood Insurance Reform Act of 1994 and its stronger lender compliance requirements. It is entirely appropriate, therefore, that the catastrophic 2004-2005 hurricane seasons are generating a need to seriously consider how the NFIP can be further adjusted and strengthened.

Over the past year and a half, in testimony before the House Financial Services Committee and Senate Banking Committee, and in presentations at various events nationwide, I have outlined the following mitigation and insurance principles:

--Protect the NFIP's integrity by covering existing commitments and liabilities;

--Phase out discounted premiums in order to charge policyholders fair and actuarially sound premiums;

--Increase NFIP participation incentives and improve enforcement of mandatory participation in the program;

--Increase risk-awareness among homeowners and consumers by improving information quality; and

--Reduce risk through combinations of proven mitigation practices and explore opportunities to reduce risks through enhanced protective measures.

Now is the time to complement our mitigation and insurance principles with several NFIP enhancements. To strengthen the NFIP, and to foster our commitment to reduce the Nation s flood risks, we believe Congress should consider the following NFIP adjustments:

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--Provide authority to eliminate premium discounts over time for properties built before flood insurance rate maps were in place, particularly for other than primary residences.

--Strengthen the mandatory insurance purchase requirement for Federally-regulated lending institutions to require insurance to value as opposed to the outstanding balance of the loan, and for the life of the loan, and to require more frequent and thorough portfolio reviews by lending regulators

--Increase the penalties for Federally-regulated lending institutions that do not comply with their mandatory purchase regulatory responsibilities.

--Study the feasibility and implications of expanding the standard for mandatory purchase requirement to include properties in the 0.2% chance per year floodplain (500-year flood plain) and properties in areas of residual risk - structures protected by levees, dams, and other manmade structures. Levee failure vastly increased the number of NFIP claims in New Orleans, and the proper depiction of areas behind levees on Flood Insurance Rate Maps continues to be one of the NFIP's primary concerns.

--Provide for additional Increased Cost of Compliance (ICC) coverage - money for NFIP policyholders to bring their structures up to existing flood-related building codes-- that is in addition to available building limits. Remove the $75 cap on ICC premiums so that a variety of ICC options can be offered to the policyholder.

Finally, I would like to address the six specific questions included in the invitation letter I received for this hearing.

1 'The NFIP's views about whether all claims by write-your own (WYO) companies in the Gulf Coast area have been properly classified as water damage, in which the NFIP is responsible for paying the claim, rather than wind damage, in which private insurers would be responsible for paying the claim.'' When a policy holder under either the NFIP or a private insurance company files a claim for damages under the respective policies, the insurance company assigns an adjuster to the case who will come out to the property and examine the damages and that information will be used to determine the loss and how much an individual policy holder is entitled to. This determination is based on the available evidence, which in most instances will be the damaged property itself. When a policy holder has both a flood insurance policy and a traditional homeowner s policy, each of the insurance companies must examine the property to make a determination of liability. The question that you ask only comes into play where the WYO that holds the NFIP policy also holds the traditional homeowner s policy.

In those limited circumstances where one adjuster was responsible for determining the damage eligible for recovery from both the NFIP and a traditional homeowner's policy held by the WYO, that those the NFIP has a rigorous program of oversight to ensure proper assignment of liability. Following Katrina, the NFIP ordered random

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re-inspection of damaged structures by third-party adjusters to affirm proper handling, as well, at the request of either a WYO or the insured, the NFIP conducted special re- inspections to verify proper handling and resolve coverage disputes, including disputes over whether damages were caused by wind or water The NFIP is also subject to audits by the Inspector General of DHS.

2. ``NFIP`s positions on participating in mediation with policyholders and private insurers to settle disputed claims, particularly involving wind versus water disputes.`

Following a disaster, the NFIP prides itself on swiftly and accurately resolving claims by its policy holders. This has resulted in our ability to close over 99 percent of claims without any legal procedure. Further, the 2004 Flood Insurance Reform Act passed by Congress required FEMA to publish an appeals process, which became effective on November 13, 2006. This process will enable NFIP flood insurance policyholders to appeal claim-settlement decisions of adjusters, agents, WYO insurance companies, and FEMA. We believe that this process will only further increase our ability to address the needs of our policy holders amicably, and without legal proceedings.

The NFIP encourages WYO companies to make or continue to make this alternative dispute resolution option available to policyholders. Additionally, I want to stress that mediation outside of the normal WYO claim handling process will provide NFIP policyholders an additional mechanism to resolve their flood claim - but only their flood claim. While such a process could have merit where a WYO also holds the traditional homeowner s policy, there are important separation of power issues with proposals that allow a State official to exercise authority over the Federal Flood Insurance Program. It is important to point out once more that the NFIP has long operated at a high success rate in resolving claims without litigation - success that can be directly attributed to the solid NFIP-Insurance Industry partnership.

3. ``How the NFIP develops requirements for private insurers to enter into WYO arrangements and what mechanisms are available to the NFIP to monitor WYO actions in providing policies to residents.`` Private insurers must meet NFIP requirements in order enter into WYO arrangements. These requirements consider criteria such as: a company`s experience in the Property and Casualty arena; a company`s standing with its State Insurance Department; the capability of a company`s distribution system to adequately sell and service flood insurance policies; and the ability of a company s resources to meet all NFIP reporting requirements.

Code of Federal Regulations Part 44, Section 62.24 clearly delineates the criteria that companies must meet in order to participate in the WYO program. FEMA believes that these standards are reasonable indicators that a company has the experience and qualifications necessary to write insurance policies under the NFIP To ensure that a company complies with WYO Arrangement`s provisions, FEMA (a) reviews the

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monthly statistical and financial submissions called for by the WYO Financial Control Plan; (b) requires companies to arrange for independent biennial audits of its NFIP business; and (c) conducts underwriting and claims operational reviews. Companies with reporting errors over certain thresholds, or with unsatisfactory audit or review findings, are subject to be called before the WYO Standards Committee, composed of Federal and company executives, to outline plans for corrective action.

4 `The process by which adjusters are certified as NFIP adjusters.

Claims Adjusters must successfully pass an approved claims course every year to maintain their NFIP certification. NFIP Claims Workshops are held Nationwide from January through May to avoid interference with hurricane season, which begins in June, and is historically the NFIP`s busiest time of year. The NFIP Bureau Statistical Agent will issue certified NFIP Claims Adjusters a Flood Certifications Card. These wallet-size cards include the adjuster`s name, Flood Certification Number, and the loss categories in which the adjuster is authorized. Qualifications

The National Flood Insurance Program (NFIP) Bureau and Statistical Agent maintains a database of NFIP qualified independent adjusters. The NFIP qualifications reflect the distinct characteristics of the NFIP coverage and adjusting requirements.

The adjuster database includes the adjuster`s name and the date and location of the workshop the adjuster attended. The purpose of these workshops is to keep the adjusting community current with claims procedures required for adjusting losses under the three forms of the Standard Flood Insurance Policy: the Dwelling Form, the General Property Form, and the Residential Condominium Building Association Policy (RCBAP). For this reason, all independent adjusters who wish to be certified must submit the Adjuster Certification Application. WYO company staff adjusters should be guided by their company`s procedures The application includes five levels of authorization. An adjuster can be authorized in one or all five categories or any combination, if the adjuster`s qualifications, detailed on the application, meet the requirements shown below. The five categories are as follows: Residential (Dwelling); Manufactured (Mobile) Home/Travel Trailer; Small Commercial (General Property); Large Commercial (General Property); and Condominium. All requirements are checked and verified prior to approval.

Residential, Commercial, and Manufactured (Mobile) Homes Authorization To be approved for Residential, Commercial, or Manufactured (Mobile) Homes losses, or any combination thereof, an adjuster must: (a) have at least 4 consecutive years of full- time property loss adjusting experience; (b) be capable of preparing an accurate scope of damage and dollar estimate to $50,000 for manufactured (mobile) homes and to $500,000 for residential and commercial losses; (c) have attended an NFIP workshop and be able to demonstrate knowledge of the SFIP and of NFIP adjust-

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ment criteria for all policy forms; and (d) be familiar with manufactured (mobile) home and Increased Cost of Compliance adjusting techniques.

Large Commercial and RCBAP Authorization To be approved for Large Commercial or RCBAP losses, or both, an adjuster must: (a) have at least 5 consecutive years of full-time large-loss property adjusting experience; (b) be capable of preparing an accurate scope of damage and dollar estimate of $500,000 or more; (c) submit written recommendations from three insurance company supervisory or claim management personnel, reflecting adjusting experience only; and (d) provide information regarding current Errors and Omissions coverage.

5. ``What monitoring mechanisms, if any or audits are being used to ensure these adjusters properly attributed damage as water rather than wind?``

As mentioned in item 1 above, the NFIP conducts random and on- demand re-inspections of damaged structures after each event, as well as routine audits of WYO open-claim files. For routine WYO audits, NFIP General Adjusters will randomly select WYOs for re- inspection, consider sets of claims, and randomly select claims for re-inspection.

---- INDEX REFERENCES ----

COMPANY: IRAN CARBON CO; ITALTSWANA CONSTRUCTION COMPANY (PTY) LTD; UNELKO CORP; LLC; DARRELL K TURNER

NEWS SUBJECT: (Natural Disasters (1NA67); Government (1GO80); Banking Risk (1BA09); Economics & Trade (1EC26))

INDUSTRY: (Insurance Regulatory (1IN40); Commercial Property & Casualty Insurance (1CO35); Financial Services Products (1FI16); Banking (1BA20); Bank Operations (1BA31); Financial Services (1FI37); Financial Services Regulatory (1FI03); Construction Financing (1CO12); Construction (1CO11); Geology & Geophysics (1GE01); Insurance Liability (1IN26); Construction Regulatory (1CO33); Environmental Regulatory (1EN91); Property & Casualty Insurance (1PR21); Security (1SE29); Science (1SC89); Financial Services Convergence (1FI45); Science & Engineering (1SC33); Corporate Insurance (1XO50); Homeland Security (1HO11); Insurance Losses (1IN47); Insurance (1IN97); Earth Science (1EA85))

REGION: (North America (1NO39); Louisiana (1LO72); Americas (1AM92); Mississippi (1MI74); District of Columbia (1DI60); USA (1US73); Alabama (1AL90))

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ANCE PROGRAM; FEDERAL INSURANCE ADMINISTRATOR; FEDERAL REGULATIONS PART; FEMA; FLOOD; FLOOD CERTIFICATIONS CARD; FLOOD INSURANCE CLAIMS HANDBOOK; FLOOD INSURANCE RATE MAP; FLOOD INSURANCE REFORM ACT; FLOOD INSURANCE REFORM ACT FEMA; FLOOD RESPONSE; HOUSE FINANCIAL SERVICES; HOUSE FINANCIAL SERVICES COMMITTEE; HOUSE SUBCOMMITTEE; ICC; INCREASE; INCREASE NFIP; INSURANCE COMMISSIONERS; INSURANCE RATE MAPS; JOINT FIELD OFFICES DISASTER RECOVERY CENTERS; LARGE COMMERCIAL; LLC; MIDWEST FLOOD; MITIGATION DIVISION; NATIONAL FLOOD INSURANCE PROGRAM; NATIONAL FLOOD INSURANCE REFORM ACT; NATIONAL PROCESSING SERVICE CENTER; NATIONWIDE; NFIP; NFIP INSURANCE; NFIP BUREAU; NFIP CLAIMS ADJUSTERS; NFIP CLAIMS WORKSHOPS; NFIP FINANCIAL; NFIP SUMMARY OF COVERAGE; NFIP) BUREAU; OVERSIGHT; PROGRAM; REFORM ACT; RESIDENTIAL; RESIDENTIAL CONDOMINIUM BUILDING ASSOCIATION; SELL FLOOD INSURANCE; SENATE BANKING COMMITTEE; SFIP; STANDARD FLOOD INSURANCE; STATE INSURANCE DEPARTMENT; TESTIMONY; TRANSCRIPT; TREASURY; TROPICAL STORM AGNES; WILMA; WYO; WYO ARRANGEMENT; WYO FINANCIAL CONTROL PLAN; WYO STANDARDS COMMITTEE; WYOS) (Adjusters; Adjustment; Certification Application; Certification Number; DAVID I. MAURSTAD; David Maurstad; FEDERAL INSURANCE; HURRICANE KATRINA; Investigations; KATRINA; Melvin L. Watt; Omissions; Post; Property; Property Form; Ranking Member Miller)

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BYLINE: By MICHAEL KUNZELMAN, Associated Press Writer

DATELINE: OCEAN SPRINGS Miss.

BODY:

Who are the moles? The question was like a parlor game for employees of State Farm Insurance Co. after Hurricane Katrina, one they nervously played during coffee breaks or in the parking lot after work.

Richard "Dickie" Scruggs, a prominent lawyer of tobacco litigation fame, created a stir by announcing in March that two "insiders" were helping him build cases against insurers for denying claims for Hurricane Katrina losses. Their identities remained a mystery until the day in early June when Cori and Kerri Rigsby employees of a company that contracted with State Farm told a supervisor they were cooperating with Scruggs.

That startling admission and their subsequent resignations ended a risky charade. The Rigsbys say they spent months collecting reams of internal State Farm reports, memos, e-mails and claims records before they gave them to Scruggs and state and federal authorities.

The sisters, who managed teams of State Farm adjusters, say the documents show that the insurer defrauded policyholders by manipulating engineers' reports so that claims could be denied.

"I think we've given him the smoking gun," Cori Rigsby, 38, told The Associated Press during a recent interview at the home she shares with her sister near Ocean Springs.

State Farm spokesman Phil Supple said the Bloomington, Ill.-based company is reviewing the sisters' allegations but hasn't been allowed to question them.

"State Farm's employees are committed to conducting themselves in an ethical and appropriate manner," Supple said. "Any suggestions to the contrary are simply wrong."

Hundreds of homeowners on Mississippi's Gulf Coast have sued their insurance companies for refusing to pay for millions of dollars of damage from Katrina. A judge who presided over the first Katrina insurance trial ruled this month that Nationwide Mutual Insurance Co. must pay for damage caused by wind but not from flooding, including storm surges.

The first of Scruggs' cases against State Farm is scheduled to be tried early next year, and he said the Rigsbys' cooperation has been invaluable in building his case.

Scruggs is no stranger to whistleblowers: Jeffrey Wigand, a former Brown & Williamson Tobacco Corp. executive, helped Scruggs and other lawyers secure a multibillion-dollar settlement with tobacco companies in late 1990s. The case was portrayed in the 1999 movie "The Insider," starring Al Pacino and Russell Crowe.

The Rigsby sisters were both eight-year employees of E.A. Renfroe, a firm that helps State Farm and other insurers adjust disaster claims. Although they weren't State Farm employees, the company issued them computers and business cards that identified them as State Farm representatives. They also had confidentiality agreements with State Farm.

"We have always been proud to work with State Farm," Cori Rigsby said.

The sisters say that pride faded, however, as they began to suspect the company was pressuring engineers to alter their conclusions about storm damage so claims could be denied.

Kerri Rigsby says her suspicions grew in November after finding a handwritten note attached to an engineer's report that read: "Put in Wind file DO NOT pay bill. DO NOT discuss."

She said the engineer's report, dated Oct. 12, concluded that Katrina's wind caused most of the damage to a Biloxi policyholder's home. That should have been good news for the policyholder, she noted, since State Farm's policies cover damage from wind but not water.

But when Kerri Rigsby pulled the policyholder's file, she said she found a subsequent report based on a second inspection of the home Oct. 18. This time, the same engineering firm concluded that water caused most of the damage, according to the report, which the AP reviewed.

"The policyholder did not get a copy of the one that said wind," said Kerri, 35. "He should have gotten lots more money."

It wasn't the only case in which State Farm's engineers drafted conflicting reports on storm damage, according to the Rigsbys. They say managers were surprised and disappointed that many initial engineering reports blamed damage on wind.

"That's when they went into a frenzy and started mass-canceling all these engineering reports," Cori said.

Kerri says "the bible" for State Farm adjusters was a "cookie-cutter" report, prepared by Haag Engineering Co. of Dallas, which concluded that rising water, or wind-driven storm surge, was responsible for most of Katrina's damage in Mississippi.

"If it didn't match the Haag report, then it wasn't accurate," Kerri said.

Supple, the spokesman for the insurance company, said State Farm ordered engineering reports for less than 2 percent of the more than 100,000 claims it received in Mississippi after Katrina. State Farm also says it made payments on more than 60 percent of the claims involving engineers. Supple rejected the allegation the company pressured engineers to change their conclusions.

"State Farm's claims-handling practices have been in a public fishbowl," he said. "With the world watching, we've done what we do every day, and that's be fully up front in all aspects of our claims work."

The Rigsbys say they didn't know what to do with the information they had gathered until their mother, Pat Lobrano, arranged a meeting with longtime friend Scruggs in February.

The sisters say they ultimately printed out and copied roughly 15,000 pages of claims records. In addition to providing the material to Scruggs, they say they gave copies to Mississippi Attorney General Jim Hood and U.S. Attorney Dunn Lampton's offices on June 5, the same day they told a supervisor they were cooperating with Scruggs.

Hood, whose office is investigating whether State Farm fraudulently denied claims, declined to comment on the Rigsbys' allegations. A spokeswoman for Lampton also would not discuss the matter.

In March, a state judge ordered State Farm to turn over copies of its Katrina engineering reports to Hood.

After the sisters resigned, Scruggs hired them to help his legal team with lawsuits filed on behalf of hundreds of policyholders. The Rigsbys wouldn't say how much Scruggs is paying them, but they say it's less than what they earned from their insurance jobs.

"Our whole lives are upside down," Kerri said.

Why would they do it? They say they wanted to help their neighbors get their claims reopened and paid.

"We don't know what the future is going to hold," Cori added, "but we sleep a little better."

LOAD-DATE: August 27, 2006

Sisters copied State Farm files; insurer underpaid on purpose, they believe
By Anita Lee
26 August 2006
The Sun Herald (Biloxi, MS)
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Two sisters who handled Hurricane Katrina claims for State Farm have turned over records to federal and state investigators because they say the company purposely underpaid or denied coverage for wind damage.

Cori and Kerri Rigsby believe State Farm Fire & Casualty Co. wanted to write off as much damage as possible to the hurricane's unprecedented storm surge covered under the National Flood Insurance Program.

Wind damage covered under State Farm homeowner policies was minimized, they say, through the use of biased or altered engineers' reports that attributed all or most damage to surge.

The company hoped to further benefit from policy language that says wind damage is not covered when water contributes. Claims managers were told to memorize the language, the Rigsbys said.

"This thing hit and they went into panic mode," said Kerri Rigsby, who now serves as a consultant, along with her sister, to a group of lawyers suing insurance companies over Katrina claims. "They thought, 'If we have to go in and pay these claims, it's going to be billions. And we just can't do that.' And I think they truly believed it was water and they were going to make sure that's how it went."

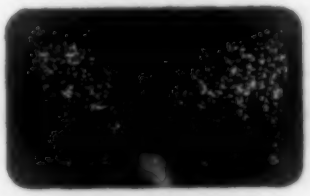
What company representatives say

State Farm representatives in Bloomington, Ill., the home office, say what the women describe would be contrary to the company's claims practices.

"We have retained a third party to conduct an extensive review of Katrina, which would include interviews of these persons," spokesman Dick Luedke said. "Unfortunately, their lawyers haven't allowed our investigation team to meet with them."

He added, "In the process of handling hundreds of thousands of claims from Katrina, I would be surprised to find we did not make a few honest mistakes."

James Shortley, claims manager for the National Flood Insurance Program in Washington, said his agency has found no evidence that State Farm or other insurers overcharged the federal government. Half a dozen FEMA inspectors spot-checked properties along the Gulf Coast, he said.



However, U.S. Rep. Gene Taylor, D-Miss., a State Farm customer who is suing the company, believes NFIP officials and private insurers are too cozy. He said State Farm found no wind damage at his Bay St. Louis home, which he thinks is preposterous.

The National Flood Insurance Program has paid $2.4 billion on 18,934 residential and commercial claims statewide. As of July 31, State Farm had paid just over $1 billion on 79,386 residential, commercial and boat claims statewide.

Luedke said State Farm has been under scrutiny since state Attorney General Jim Hood sued insurers demanding that they cover Hurricane Katrina damage. Hood's office also has launched a grand jury investigation of claims-handling practices.

"State Farm's claim-handling practices have been in a public fishbowl since the Mississippi attorney general filed his lawsuit 17 days after Katrina struck," Luedke said. "With the world watching, we have been doing what we had been doing before the world started watching, and that is being totally up-front in all aspects of our claims work."

In past catastrophes, the Rigsby sisters found their claims work for State Farm rewarding. They were employed as claims adjusters, trained professionals who determine the cause of property damage and the amount owed under the policy. They were employed by damage assessment firm E.A. Renfro, but have handled State Farm claims almost exclusively in recent years.

They were glad to come back to the Mississippi Coast, their home, to help State Farm with Katrina claims. Both were claims managers. They worked out of State Farm offices and each supervised a team of claims adjusters.

The first departure from standard procedure, they said, was State Farm's decision to order engineers' reports on all severely damaged properties subjected to tidal surge and wind. Normally, trained adjusters examine the property and, if they are unable to sort out the damage, call in a licensed professional engineer for an opinion.

The Rigsbys also said State Farm management advised claims managers to pay policy limits to those customers with flood insurance.

NFIP's Shortley said the agency authorized insurers, through a written memo, to pay policy limits on flood claims in surge areas where only slabs remained. Although the program provides flood insurance, it pays private insurers to issue the policies and adjust any claims for damage.

The Rigsbys said flood claims were paid before engineers even apportioned wind and water damage.

When engineer's reports did start arriving, they said, the State Farm catastrophe coordinators who headed their office were not happy.

Many reports, the Rigsbys said, found a combination of wind and water damage.

"If a house is breached, wind can gut a house just like water because of the pressure of the wind," Cori Rigsby said. "If the house isn't breached, wind can't do that extent of damage. It can go either way."

The engineering reports went straight to a catastrophe coordinator rather than the adjusters, another departure from routine, the Rigsbys said. They also say adjusters were not allowed to deal directly with the engineers as they had in the past.

The Rigsbys' suspicions were further aroused when Cori Rigsby heard a catastrophe coordinator insist that a wind damage conclusion be changed to water before State Farm paid for one report.

The sisters thought maybe the catastrophe manager was a renegade.

They really knew something was amiss, they said, when Kerri Rigsby received an engineering report, by accident she believes, with a sticky note attached. "Do not pay, do not discuss," the note said.

She went to the policyholder's file, the official record on the claim, and found a report issued eight days later that downplayed wind damage mentioned in the earlier report. This lowered State Farm's settlement with the policyholder, who was unaware two reports existed, the Rigsbys said.

State Farm pulled the plug on engineers' reports because they were not reaching the conclusions the company had sought, the Rigsbys said.

One State Farm document the Rigsbys copied, dated Oct. 22, advises: "If you have already inspected this loss, do not write the report. Send your investigation material with your bill."

In cases where reports had already come in and State Farm disliked the conclusions, the Rigsbys said, a second report was ordered.

State Farm spokesman Loedke said more than one report was ordered inadvertently on some claims because of problems such as communication breakdowns immediately after the hurricane.

He also said State Farm's policy is that adjusters must authorize an engineer's report and that more reports would have been ordered soon after the storm because adjusters handled the most severe damage first. Those cases, he said, were the ones where an engineer was most needed.

Once the Rigsbys decided State Farm was intentionally mistreating policyholders, they said that they wanted to do something about it.

They spent an entire weekend printing out computer records from State Farm's system. The task was so large they recruited three friends to help.

"We believe State Farm has committed fraud," Kerri Rigsby said, "and we have turned it over to be investigated.

"Anybody who had any kind of engineer assigned to them at any time during this storm, whether it was followed through or not, we got that information. We know every policyholder on the Gulf Coast that shoulda, coulda, woulda had an engineer."

They informed a supervisor what they had done and continued working for a short time. Soon enough, State Farm told the Rigsbys they were relieved of their duties.

Now they consult for Scruggs Group

They say their work as consultants for the Scruggs Katrina Group, which is suing on behalf of thousands of policyholders, doesn't pay as well as claims adjusting. But they're not complaining.

They do have some advice for State Farm policyholders: If you are dissatisfied with your insurance payment, or lack of payment, call the company and demand another evaluation.

In a State Farm lawsuit, a federal judge already has determined the company can't rely on "ambiguous" policy language to deny coverage for wind damage because water contributed. Wind damage, U.S. District Judge L.T. Senter Jr. has said, is covered regardless.

"The squeaky wheel gets the grease," Kerri Rigsby said. "Now that the judge has said, 'You have to try to determine what was wind and what was water,' they need to reopen those claims. You will be surprised how many people will settle for denial and let it go.

"They do not have the will to fight and they do not know how to fight it."

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF MISSISSIPPI

SOUTHERN DIVISION

THOMAS C. and PAMELA McINTOSH,

Plaintiffs,

VERSUS NO. 1:06-cv-1080-LTS-RHW

STATE FARM FIRE & CASUALTY COMPANY, FORENSIC ANALYSIS & ENGINEERING CORPORATION and E.A. RENFROE & COMPANY, INC.,

Defendants.

VIDEOTAPED DEPOSITION OF ZACH SCRUGGS

Taken at the Scruggs Law Firm, 120A Courthouse Square, Oxford, Mississippi, on Monday, July 21, 2008, beginning at 9:30 a.m.

JOB NO. 14754

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ALSO PRESENT:
BRUCE TOMPKINS
REPORTED BY:
MONICA SCHROEDER, RPR, CRR, CSR #1285
JEFF CONNER - VIDEOGRAPHER

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Mr. Twiford
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Exhibit 3,

STIPULATION

It is hereby stipulated and agreed by and between the parties hereto, through their respective attorneys of record, that this deposition may be taken at the time and place hereinbefore set forth, by Monica Schroeder, Court Reporter and Notary Public, pursuant to the Federal Rules of Civil Procedure, as amended;

That the formality of READING AND SIGNING is specifically NOT WAIVED;

That all objections, except as to the form of the questions and the responsiveness of the answers, are reserved until such time as this deposition, or any part thereof, may be used or is sought to be used in evidence.

ZACH SCRUGGS
having been first duly sworn, was examined and testified as follows:
EXAMINATION
BY MR. ROBIE:
Q. Would you please state your full name and spell your last name for me.
A. David Zachary Scruggs, S-c-r-u-g-g-s.
Q. And what is your current address, please?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based on my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Have you ever previously given a deposition?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Have you ever taken a deposition?
A. Based on the advice and instruction

of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. This is an oral proceeding. I'll be asking you questions. I would ask you, please, if you don't understand the questions to stop and tell me you don't understand and I'll do my best to rephrase it for you. If you also wait until I complete my question before answering, it will assist in making a clearer record and will prevent the court reporter from throwing her machine at us in sheer frustration. Will you do that for me, please?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based on my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. The oath that was administered to you was the same oath that you take in a court of law. Do you understand that the proceeding we're about to start is being

conducted under penalty of perjury?
MR. MARTIN:
Can we have an understanding that he can just say "same objection" to avoid having to read that each time? Because that obviously is what he will do in response to each question that you ask him.
MR. ROBIE:
I would prefer to have him clearly state the objection.
MR. MARTIN:
All right.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer, based on my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. Your father is Richard Scruggs?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Isn't it true that you are a

convicted felon?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Isn't it true that you were sentenced to 14 months in federal prison for failure to report a conspiracy to corruptly influence a state court circuit judge?
MR. MALLETTE:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. Isn't it true that you are to report to federal prison on August 14, 2008, to begin the service of your sentence?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment

and the Mississippi Constitution.
Q. Isn't it true that you have been disbarred based on your conviction for failing to report a conspiracy to corruptly influence a state court circuit judge?
MR. MALLETTE:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. Did you meet with anyone to prepare for your deposition?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Did you review any documents to prepare for your deposition?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against

self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Have you seen the subpoena that was served compelling you to appear at this deposition?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Have you brought any documents with you here today in response to that subpoena?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Did you provide documents to State Farm in response to a Request for Production of documents?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.

Q. Have you seen Judge Senter's memorandum opinion overruling your objections regarding discovery requests and ordering you to produce documents to State Farm?
MR. MALLETTE:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. Have you complied with Judge Senter's order requiring you to produce documents?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Can you explain to me, please, what process you went through in order to satisfy yourself that you had fully complied with Judge Senter's order to produce documents in

response to that subpoena?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
I'd like to mark as Exhibit 1 to this deposition the notice of this deposition.
MR. MALLETTE:
Can I see the document, please?
MR. ROBIE:
Yes.
MR. MALLETTE:
What you have handed me is a notice of intent to serve subpoena, dated back on the 14th of January of '08. I don't know that this is the notice of this deposition.
MR. ROBIE:
You are right. Here is the Second Re-Notice of Video Deposition with a document request that bears the PACER case number and --
MR. MALLETTE:

Is that your proposed Exhibit 1?
MR. ROBIE:
Yes, it is. We'll mark it and give it to the court reporter.
(Exhibit 1 was marked.)
MR. ROBIE:
Q. This document requests you to produce here today the originals of any documents which were previously produced in response to our Request for Production. Have you brought any original documents?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer, based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. MALLETTE:
And I also note our objection, which was provided in writing to Mr. Mullen, counsel for State Farm, that we objected to the requirement of bringing additional documents of those already produced.
MR. ROBIE:
Q. Did you bring the original October 12, 2005 Forensic Analysis engineering

report on the McIntosh property with the original sticky note attached?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. Isn't it a fact that your clients, your then clients, Kerri and Cori Rigsby, stole that document from State Farm?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
MR. MALLETTE:
And instruct not to answer on attorney/client privilege grounds.
A. Based on advice and instruction from my counsel, I respectfully decline to answer based upon my privilege against

self-incrimination under the Fifth Amendment and the Mississippi Constitution and the objection that my counsel just raised.
MR. ROBIE:
Q. Kerri and Cori Rigsby have testified that by Halloween of 2005 they stole the original October 12, 2005 Forensic Engineering report on the McIntosh property from State Farm's records. Isn't it a fact they gave you that document after they took it from State Farm?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. How many times have you seen that original report, the October 12, 2005 Forensic Engineering report relating to the McIntosh property?

MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. When did you first meet with Kerri and Cori Rigsby?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and Mississippi Constitution.
Q. Did you attend a meeting at the Mississippi Department of Insurance with your father in December of 2005?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and Mississippi Constitution.

MR. MALLETTE:
And I object to the question on attorney/client and work product grounds.
MS. NICHOLSON:
Join.
MR. ROBIE:
I'm not sure I know which attorney work product or attorney/client privilege you are asserting. Who's the attorney and who's the client?
MR. MALLETTE:
I'm not sure. In January '05, I don't know what the predicate for your question is.
MR. ROBIE:
If I said January '05, I meant -- let me restate it.
Q. Lee Harrell, of the Mississippi Department of Insurance, has testified that he met with your father at the department in December of 2005. Did you attend that meeting?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against

self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Mr. Harrell has further testified that during the course of that meeting, Dick Scruggs informed him that he was working with two insiders at State Farm who were furnishing him information. Isn't it a fact that you were present at that meeting and heard him make that statement?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Other than Kerri and Cori Rigsby, are there any other State Farm insiders that have ever worked with you, your father, the SKG or the Scruggs law group on Hurricane Katrina litigation?
MR. MALLETTE:
I object on work product grounds.
MS. NICHOLSON:
And I object. Join to the extent it involved the McIntosh case.
A. Based on the advice and instruction

of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. In fact, the only State Farm insiders who have ever worked with your firm on the McIntosh case are Kerri and Cori Rigsby; isn't that a fact?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
And, also, I assert the work product and attorney/client privilege.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Just so I have a clear understanding, Ms. Nicholson, whose work product and what attorney/client privilege are you protecting?
MS. NICHOLSON:
To the extent he was acting as the

McIntosh's attorney during that and in the McIntosh case, to that extent, that's the work product I'm asserting.
MR. ROBIE:
Q. How many times have you seen the October 12, 2005 Forensic Engineering original report with sticky note?
MR. MALLETTE:
Is that the question?
MR. ROBIE:
Yes.
Q. How many times have you seen that report?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. Did you tell the Attorney General of the State of Mississippi that he could

subpoena that record, namely, the October 12, 2005 Forensic Engineering report from State Farm knowing full well that State Farm could never produce it because your clients, the Rigsbys, had stolen it?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. In fact, that's exactly what occurred, isn't it, Mr. Scruggs?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment

and the Mississippi Constitution.
MR. ROBIE:
Q. You did tell the Attorney General of the State of Mississippi and/or his deputies that the State could subpoena the original October 12, 2005 Forensic Engineering Analysis report on the McIntosh property knowing full well that State Farm could never produce it because your clients, Kerri and Cori Rigsby, had stolen it from State Farm?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. Did you also tell reporters that State Farm had destroyed the October 12, 2005 Forensic Engineering report on the McIntosh property knowing that, in fact, it

had been stolen from State Farm and that the company didn't have it?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. Isn't it a fact, Mr. Scruggs, that you initiated a strategy to urge the law enforcement officers of Mississippi and the press to pursue a claim of fraud against State Farm because your clients had stolen the original October 12 Forensic Engineering report and you knew that State Farm could never produce it?
MR. MALLETTE:
Object to the form and object to Work Product Doctrine invasion.
MS. NICHOLSON:
Join.

A. Based on the advice and instruction of my counsel, I respectfully decline to answer that question based upon my privilege against self-incrimination, based on the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. How many conversations did you have with Brian Ford, the author of the October 12, 2005 Forensic Engineering report?
MS. NICHOLSON:
Object to the form. Also, object on the work product and attorney/client privilege.
MR. MALLETTE:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and Mississippi Constitution.
MR. ROBIE:
Q. Were you a member of the SKG?
A. Based on the advice and instruction of my counsel, I respectfully decline to

answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Were -- the SKG and/or the Scruggs law firm agreed to pay Brian Ford $10,000 a month for consulting with your firm and the SKG in Katrina litigation, didn't they?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form. Also work product.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. The agreement to pay Brian Ford $10,000 a month fell through when Brian Ford testified that the follow-up report on the McIntosh property, namely, the October 20th, 2005 report, was more accurate than the October 12 report, which your clients had stolen from State Farm; isn't that a fact?

MR. MALLETTE:
Object to the form and object as invading Work Product Doctrine.
MS. NICHOLSON:
Same objection.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. ^ Start here isn't it true that your father or your firm arranged for Robert Oswald to buy Kerri Rigsby's house for somewhere in the range of $500,000?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege under self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. MALLETTE:
And I object on attorney/client privilege grounds.
A. And I adopt that objection, as well.
Q. How much have the Rigsbys been paid

by you, your father, the Scruggs law firm or the Scruggs Katrina group?
MS. NICHOLSON:
Object to the form.
MR. MALLETTE:
I object to the form. I object to the attorney/client privilege.
A. Based on advice and instruction my counsel, I respectfully decline to answer based on my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution and the objections raised by my counsel.
Q. Are you or your father still paying the Rigsbys?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join the objection.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Have you or your father promised Mr.

and Mrs. McIntosh a recovery from their case?
MR. MALLETTE:
Object to the form. Object to attorney/client privilege.
MS. NICHOLSON:
Object to the form. Same objection.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based on my privilege of self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. How much did you promise Thomas Pamela McIntosh that you would guarantee them in their recovery against State Farm?
MR. MALLETTE:
Object to the form and based on attorney/client privilege.
MS. NICHOLSON:
Same objection.
A. Based on advice and instruction of counsel, I've respectfully decline to answer based on self incrimination under the Fifth Amendment and Mississippi Constitution.
Q. What did you do with the calendar

that Cori Rigsby printed off her State Farm computer and produced to your office?
MR. MALLETTE:
Object to the form, attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Same objection.
A. Based on advice and instruction of my counsel, rye SPECT fully decline to answer based on self-incrimination under the Fifth Amendment and Mississippi Constitution.
Q. You didn't produce Ms. Rigsby's calendar in response to State Farm's Request for Production of documents, did you?
A. Based on advice and instruction of my counsel, I respectfully decline to answer based on my privilege under self-incrimination in the Fifth Amendment and Mississippi Constitution.
Q. You have never produced Cori Rigsby's calendar to any party in the McIntosh litigation despite requests to do so, have you?
MR. MALLETTE:

Object to the form.
MS. NICHOLSON:
Join.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege under self-incrimination and the Mississippi Constitution.
MR. ROBIE:
Q. How much have you or your father paid to the Rigsbys' attorneys for their criminal defense?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege under self-incrimination under the Fifth Amendment and Mississippi Constitution.
Q. Who selected George Holly as the first defense counsel for Ms. Kerri and Cori Rigsby?
MR. MALLETTE:
I object on attorney/client privilege.
A. Based on the advice and instruction of my counsel, I respectfully decline to

answer based upon self-incrimination in the Mississippi Constitution.
Q. Is it Greg Hawley or George Hawley? Greg Hawley, H A W L E Y.
MR. MALLETTE:
Same objection.
MR. ROBIE:
Same answer?
A. I adopt my previous answer.
MR. ROBIE:
Q. How much has Mr. Hawley been paid by you, you were father or your firm?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege under self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. MALLETTE:
And I object to the form of the question.
MS. NICHOLSON:
Join? The objection.
MR. ROBIE:
Q. The Rigsbys have testified without contradiction that your father has agreed to

pay for their defense, to pay for all attorneys' fees incurred, and that includes Mr. Hawley, the Zuckerman Spaeder firm and the Battle, Fleenor firm. Are they being dishonest when they tell us that?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join in the objection.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based on my privilege against self incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. How much has your father or your firm or the Scruggs Katrina group paid Zuckerman Spaeder to date on behalf of the Rigsbys?
MR. MALLETTE:
Object to the form.
A. Based on the advice and instruction of my counsel, rye respectfully decline to answer based upon my privilege under self-incrimination under the Fifth Amendment

and the Mississippi Constitution.
Q. How much has your father, yourself or the SKG paid to battle flea nor to date on behalf of the Rigsbys?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the fifth amount endment and the Mississippi Constitution.
Q. Are you still paying the attorney charges for the work being performed by battle flea nor currently on behalf of the Rigsbys?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege under self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. Are you still paying attorney fees to the Zuckerman Spaeder firm for the their

work in the fourth circuit appellate matter on behalf of the Rigsbys?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of counsel, rye respectfully decline to answer based on the Fifth Amendment and Mississippi Constitution.
MR. ROBIE:
Q. How much total, to date, has your father, your firm or the SKG paid the Rigsbys under their $150,000 per year consulting agreement?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Did the Rigsbys submit any kind of

paperwork as a precondition of receiving their monthly or semi-monthly payment of their $150,000 a year consulting contract?
MR. MALLETTE:
Object to the form and object to the extent it seeks to invade the attorney/client privilege.
MS. NICHOLSON:
Join.
A. Based on the advice and instruction of my counsel, rye respectfully decline to answer based upon my privilege under self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Is Charlene Bosarge the person at the Scruggs law firm who maintained the financial records relating to payments made to the Rigsbys?
MS. NICHOLSON:
Object to the form.
MR. MALLETTE:
Object to work products doctrine.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege under

self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Isn't it a fact that the Rigsbys submitted requests for reimbursement of travel expenses to Charlene Bosarge and were paid those requested reimbursements pursuant to their consulting contract with your firm?
MR. MALLETTE:
I object on work product grounds.
MS. NICHOLSON:
Join.
A. Based on the advice than trucks of my counsel, rye SPECT fully decline to answer based upon my privilege against self-incrimination under the fifth amount endment and the Mississippi Constitution.
Q. I want you to assume that both Kerri and Cori Rigsby testified at the last session of their deposition that they took a trip to Washington, D.C., and your firm reimbursed them for those expenses. I want you to further assume that we have never seen either proof of that reimbursement or proof of the expenses which were submitted to Charlene Bosarge for reimbursement. Do

you know where those documents are today?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege under self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. Has your firm destroyed financial records relating to reimbursement of expenses and payment of compensation to the Rigsbys?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Does Tim C A N T R E LL maintain

financial records for reimbursement of the Rigsbys' claimed expenses or payment of their consulting fees?
MS. NICHOLSON:
Object to the form and work product.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Were the Rigsbys paid their compensation on the $150,000 a piece consultation contract by check, cash, wire transfer or some other form?
MS. NICHOLSON:
Object to the form. Work product.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. How about Meg McAlister, has she written checks to pay attorney's fees for the Rigsbys?
MS. NICHOLSON:

Object to the form, attorney/client privilege and work product.
MR. MALLETTE:
And I object to the form.
A. Based on the advice and instruction of my counsel, I respect foot I decline to answer based upon my privilege under self-incrimination in the Fifth Amendment and Mississippi Constitution.
Q. Did Meg McAlister issue payments to the rigs business for reimbursement of expenses?
MS. NICHOLSON:
Object to the format on I client privilege and work product protection.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based on my privilege against self incrimination under the Fifth Amendment and Mississippi Constitution.
Q. Did Meg McAlister issue payments to the rigs business as part of the $150,000 payment per year under the consulting product?
MR. MALLETTE:

Object to the form.
MS. NICHOLSON:
Object to work product and attorney client privilege.
A. Based on the advice and instruction of my counsel, rye SPECT fully decline to answer that question based on the Fifth Amendment and the Mississippi Constitution.
Q. When was the first time that Kerri or Cori Rigsby brought documents to you that they stole from State Farm?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Based on advice and instruction of my counsel, I respectfully decline to answer based on the fifth amend 789 and Mississippi Constitution.
Q. How many times did Kerri or Cori Rigsby bring documents to your office that they had taken from State Farm's Katrina operation?
MR. MALLETTE:
Object to the form and object to

attorney/client privilege.
MS. NICHOLSON:
Join and Work Product Doctrine.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Isn't it a fact that someone at the Scruggs law firm was responsible for maintaining documents and records that Kerri and Cori Rigsby brought to the firm from State Farm's Katrina operation?
MR. MALLETTE:
Object to the form. Object on attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join all objections.
A. Based on at advice and instruction of my counsel, I respectfully decline to answer based upon my privilege under self-incrimination under the Fifth Amendment and Mississippi Constitution.
Q. Did the Scruggs law firm maintain

those records right up to today?
MR. MALLETTE:
I object on attorney/client and work product grounds.
MS. NICHOLSON:
Join.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege under self-incrimination under the Fifth Amendment and Mississippi Constitution.
MR. ROBIE:
Q. Does the Scruggs law firm presently have the documents or copies of documents which the Rigsbys brought to the firm from State Farm's Katrina operation?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and Mississippi Constitution.
MR. MALLETTE:
And I also object on attorney/client privilege grounds.
MS. NICHOLSON:

Join.
MR. ROBIE:
Q. Do you have an inventory of the records that the Rigsbys brought to you from State Farm's Katrina operations?
MR. MALLETTE:
Object on work product and attorney/client grounds.
MS. NICHOLSON:
Join those objections.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and Mississippi Constitution.
MR. ROBIE:
Q. Isn't it a fact that you never advised the Rigsbys that their unauthorized access of State Farm's confidential computer database and the extraction of records from that collection, without State Farm's permission, was a crime?
MR. MALLETTE:
Object to the form. Object to attorney/client privilege and object on Work

Product Doctrine grounds.
MS. NICHOLSON:
I join.
A. Based on the advice than trucks of my counsel, I respectful I decline to answer based upon my privilege against self incrimination under the Fifth Amendment and Mississippi Constitution.
Q. Isn't it also a fact that you urged the Rigsbys to repeatedly access State Farm's confidential computer database, extract information and furnish it to you?
MR. MALLETTE:
I object on attorney/client privilege and work product grounds.
MS. NICHOLSON:
I join.
A. Based on advice and instruction of my counsel, I respectfully decline to answer based on self incrimination and the Fifth Amendment and the Mississippi Constitution.
MR. ROBIE:
Q. I'm going to show you a document which we'll mark as Exhibit 2.
(Exhibit 2 was marked.)

MR. WEATHERLY:
Counsel, may we look?
MR. ROBIE:
I have three of them, total.
Q. Have you had a chance to look at that document, Mr. Scruggs?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based on my privilege against self-incrimination and the Mississippi Constitution.
Q. For the record, Exhibit 2 is a two-page document. The earliest date on it is May 26, 2006, which is an e-mail sent from a woman named Lynn vaneder Ford to herself. There's a string of e-mails that conclude with an e-mail from Cori Moore and dated Monday, June 5, 2006, at 6:55 a.m. to Zach Scruggs at Scruggs firm.com. Zach Scruggs at Scruggs firm.com is your e-mail address, isn't it, Mr. Scruggs?
A. Based on the advice and instruction of my counsel, rye SPECT fully decline to answer based on my privilege against self incrimination.

Q. You are the only Zach Scruggs that receives e-mail at that time at the Scruggs firm, aren't you?
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege of self-incrimination under the Fifth Amendment and the Mississippi Constitution.
Q. Can you tell me, Mr. Scruggs, why you didn't produce a copy of this e-mail with the documents that your firm produced in response to State Farm's document requests?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. Based on the advice and instruction of my counsel, I respectfully decline to answer based upon my privilege against self-incrimination under the Fifth Amendment and the Mississippi Constitution.
MR. MALLETTE:
And I also object on the basis of attorney/client privilege.

(Off the record.)
MR. MALLETTE:
Before you begin questions again, Mr. Robie, we would ask again that he would be allowed to reiterate the same objection that he has read to you numerous times. It takes additional time to the deposition. It doesn't need to be taken and it seems to be harassing to the witness.
MR. ROBIE:
I've thought about it too and it seems we are probably spending more time reading that standard response. What I would propose is that you will make a copy of that response, we'll attach it as Exhibit 3 and for a shorthand -- I do need to know what objection he's making specifically, and if he's taking the fifth, he can just say, you know, I'll take the fifth, whatever. But I need a specific reference to the Fifth Amendment. I don't want to have just same objection, same objection.
MR. MALLETTE:
To be clear that he's not simply saying I take the fifth, but he's reading

this, then I don't mind putting that 234 as exhibit and he can just reference Exhibit 3 each time.
MR. ROBIE:
Or so my record is clear, I want him to say Fifth Amendment.
MR. MALLETTE:
Why, if you have as an exhibit, we all know what we're talking about?
MR. ROBIE:
Because it's my preference and I want the clearest record I can possibly get. I don't want any dispute about what objection he's making.
MR. MALLETTE:
And we'll continue to make those, but how can it be unclear if he's referencing an exhibit?
MR. BANAHAN:
The Fifth Circuit has said in some case law that an individual invoking the Fifth Amendment needs to do it to each question. That's the only reason we need to do it. If there's an invocation of the Fifth Amendment, it needs to be for each

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question. However you want to abbreviate that, that's fine, but it needs to be articulated that it's to each question.
MR. MALLETTE:
I'm not asking that he take a blanket privilege. I'm asking that he be allowed to abbreviate it by referring to this document which Jim suggested putting in the record as an exhibit and I don't know why that's not acceptable.
MR. BANAHAN:
I'm not sure it's clear enough. It needs to be clear that is what a witness is doing to a question.
MR. MALLETTE:
He would. In each question, he would refer to that exhibit.
We'll go on, but the record, I think is clear that it's your request that he invoke it individually and the terms of what he's invoking from here forward 6789 we'll go on under those terms.
MR. ROBIE:
I'm not sure what we've agreed to. Have we agreed to shorten it up at all?

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MR. MALLETTE:
I don't think so.
MR. MARTIN:
The way that he's going to do it, of course, on a question by question basis, but the basis of his objection is he's going to say he objects based on Fifth Amendment grounds.
MR. ROBIE:
That's fine.
MR. MALLETTE:
And we all agree that that incorporates the answer he's been reading so far.
MR. ROBIE:
He doesn't need to read it any more. We can give it to the court reporter as Exhibit 3 or mark it and move on.
MR. MALLETTE:
That's fine.
(Exhibit 3 was marked.)
MR. ROBIE:
Q. Mr. Scruggs, we were looking at Exhibit 2, which is an e-mail from Cori Moran to you on the State Farm e-mail

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system. How frequently did Ms. Moran send you e-mails from the State Farm either net system?
MR. MALLETTE:
Object as to the form and object as to attorney/client privilege.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response it that question.
MR. ROBIE:
Did she do it more than once a week?
MS. NICHOLSON:
Object to the form Work Product Doctrine.
MR. MALLETTE:
Object to the form, also attorney/client privilege.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. ROBIE:
Q. Did you have a set standard on what information she was to send you directly from the State Farm e-mail system?
MR. MALLETTE:

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Object to the form. I also object to attorney/client privilege, Work Product Doctrine.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. ROBIE:
Q. This particular e-mail forwards an audiovisual tool which was being circulated through the State Farm Katrina operation. Did you put any limitations on what Cori Moran or Kerri Rigsby were to send you directly from the State Farm system?
MR. MALLETTE:
Object to the form as to attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights to that question.
Q. Did you show this audiovisual tool to Anita Lee at the sun hair add?
A. I invoke my fifth amend 789 rights

with response to that question.
Q. Did there come a time where you told Kerri Moran or Kerri Rigsby that they should stop sending you information directly on the State Farm e-mail system?
MR. MALLETTE:
I object to the form and object to attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights.
Q. When did they start, Cori or Kerri Rigsby start sending you e-mails from the State Farm e-mail system?
MR. MALLETTE:
Object to attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did they send you file information about Katrina claimants on the State Farm

system?
A. I invoke my Fifth Amendment rights in response to that question.
MR. MALLETTE:
And I object as to attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
I join.
MR. ROBIE:
Q. Your firm also furnished the Rigsbys with cell phones, did they not?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with response to that question.
Q. Both of the Rigsbys have testified under oath that your firm gave them cell phones. Were they testifying truthfully when they gave us that information?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.

A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. How frequently did Kerri or Cori Rigsby call you from the State Farm office on a Scruggs furnished cell phone?
MR. MALLETTE:
Object as to attorney/client privilege. Object to the form of the question. Object to the attorney/client Work Product Doctrine.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with response to that question.
Q. Are there any particular instances where they were instructed to make calls from the State Farm office on Scruggs issued cell phones?
MR. MALLETTE:
I object to the form, object to attorney/client privilege and object on Work Product Doctrine.
MS. NICHOLSON:
Join.

A. I invoke my Fifth Amendment rights in response to that question.
Q. Did the Rigsbys ever fly on your father's airplane?
A. I invoke the Fifth Amendment in response to that question.
Q. Did you at end a meeting or meetings in Texas with the Rigsbys and other members of the SKG group to set out strategy on how to deal with these cases?
MR. MALLETTE:
I object on attorney/client privilege Work Product Doctrine grounds.
MS. NICHOLSON:
I join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you appear at a meeting in Dallas where the Rigsbys were brought to meet with SKG personnel to discuss strategy on handling litigation against State Farm?
MR. MALLETTE:
I object to the form. I object to attorney/client -- as to attorney/client

privilege grounds and Work Product Doctrine grounds.
MS. NICHOLSON:
Join all objections.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Were you involved in making arrangements for a computer technician to work on Cori Rigsbys' State Farm issued laptop before they performed the data dump in June of 2006?
MR. MALLETTE:
I object as to attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. How much did your firm or your family pay a computer technician to work on Kerri Rigsby's or Cori Rigsby's State Farm issued laptop before the data dump weekend?
MR. MALLETTE:

I object to form. I object on attorney/client privilege and I object on Work Product Doctrine grounds.
MS. NICHOLSON:
Join all objections.
A. I invoke my Fifth Amendment rights in response to that question.
Q. When did your firm give the Rigsbys a copy of the McFarland exhibit listing each of your clients so they could access State Farm's computer database and gather material during the June data dump?
MR. MALLETTE:
I object to the form, attorney/client privilege grounds and work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did they contact you with any questions about how extensive a document search they should run for each one of your clients before they extracted the material

from State Farm's confidential database during the June data dump?
MR. MALLETTE:
I object to form. I object on attorney/client privilege grounds and on Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did anybody on your behalf download or transfer data from Cori Rigsby's home computer before it stopped working?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds, as well as to the form of the question.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did anyone from SKG or your firm tell Cori Rigsby to disable her home

computer?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you tell Cori Rigsby to delete incriminating information from her home computer?
MR. MALLETTE:
Object on attorney/client privilege, work product and object to the form of the question any any join.
A. Any voc my Fifth Amendment rights in response to that question.
Q. Did you cause or try to cause Cori Rigsby's home computer to stop working?
MR. MALLETTE:
Object to the form on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:

Join.
A. I invoke my Fifth Amendment rights in response to that question.
Q. Do you know where any data that was retrieved from Cori Rigsby's home computer is presently located?
A. I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
And I join and object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you ever give Cori or Kerri Rigsby a laptop? Nil mill I object on attorney/client privilege and Work Product Doctrine grounds?
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights to that question.
MR. ROBIE:
Q. After Katrina destroyed your father's home in Pascagoula, did he put a trailer on his property?

A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. I don't understand how that could possibly implicate your Fifth Amendment rights?
MR. MARTIN:
Well, that's not -- he's objected based upon his Fifth Amendment right.
MR. ROBIE:
Well, I just want to make sure that I'm not waiving some obligation under the circuit that we're working under to have the witness explain why he would have a Fifth Amendment claim.
MR. MARTIN:
It's not necessary that that statement, itself, is incriminating. It's whether it could lead to any other potentially incriminating information.
MR. ROBIE:
So if I were to ask him can you explain your invocation of the Fifth Amendment, the answer to that would be, that, too, is protected by the Fifth

Amendment? That would be the answer I would get?
MR. MARTIN:
Yes.
MR. ROBIE:
I'm not interested in wasting time. I'm interested in making a good record here. I'm not interested in harassing him. I want to make sure on we're on the same wavelength. So any follow-up of why are you invoke ating the fifth would elicit another invocation of the fifth?
MR. MARTIN:
Yes.
MR. ROBIE:
Q. Did you meet with Kerri and Cori Rigsby in a trailer after the Katrina landfall?
A. I invoke my Fifth Amendment rights in response to that question.
MR. MALLETTE:
And I object to the form and on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:

I join.
MR. ROBIE:
Q. How many times did you meet with Kerri or Cori Rigsby, their mother, Pat Lobrano, Chip Robinson, Todd Graves, Tony Dewitt in a trailer in Pascagoula?
MR. MALLETTE:
Object to the form. I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Have you read the Rigsbys' testimony about the meetings that occurred in the trailer with the lawyers I've named, in addition to another lawyer named Mary?
MS. NICHOLSON:
I object on work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.

MR. ROBIE:
Q. Let me see if I can get the question a little more crisp. The Rigsbys have both testified that in what they believe to be March of 2006, their mother, Pat Lobrano, drove them to a trailer owned by Richard Scruggs. Were you aware of that testimony?
A. I invoke my Fifth Amendment rights in response to that question.
MR. MALLETTE:
And I object to the form.
MS. NICHOLSON:
I object to the form and also invoke Work Product Doctrine.
MR. ROBIE:
Q. They further testified that when they arrived there, they and their mother met with you, Zach Scruggs, your father, Dick Scruggs, attorneys Chip Robertson, Todd Graves, Tony Dewitt and a woman named Mary, whose name I do not recall. In fact, that meeting took place, didn't it?
MS. NICHOLSON:
Object to the form.
MR. MALLETTE:

And I object on Work Product Doctrine grounds.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. In fact, during the course of that meeting, Cori Rigsby booted up her State Farm laptop and allowed the lawyers in attendance to survey State Farm's confidential database, didn't they?
MR. MALLETTE:
I object to the form. I object on attorney/client privilege grounds and Work Product Doctrine grounds.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. In fact, Tony Dewitt took the computer from Cori Rigsby and for some several hours, searched State Farm's confidential databases without State Farm's permission, didn't he?
MR. MALLETTE:

I object on attorney/client privilege grounds, Work Product Doctrine grounds and object to form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Let me show you two pages, three pages of photos which we'll mark as Exhibit 4.
(Exhibit 4 was marked.)
MR. ROBIE:
Q. Have you had a chance to look at those photos, Mr. Scruggs?
A. I invoke my Fifth Amendment rights in response to that question.
Q. These photos in, fact, depict the trailer where you and the Rigsbys and other lawyers met in March of 2006, isn't that a fact?
MR. MALLETTE:
Object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:

Join and object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. These photos show the present condition of the trailer which is situated on Senator Lott's property; isn't that a fact?
A. I invoke my Fifth Amendment rights in response to that question.
Q. How many meetings did you have with the Rigsbys and the lawyers that I have mentioned in a trailer in Pascagoula?
MR. MALLETTE:
Object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join and object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. The lawyers from Chip Robertson and Tony Dewitt's firm, as well as Todd Graves, were attorneys from Missouri that your father had hired to work on the Rigsbys' qui

tam case, weren't they?
MR. MALLETTE:
Object as to attorney/client privilege, Work Product Doctrine and object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
Q. Tony Dewitt was not a State Farm employee, was he?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Tony Dewitt, in fact, not only operated the computer, the State Farm computer to survey State Farm's confidential database. He also uploaded data to a U.S. B drive, did he not?
MR. MALLETTE:
Object on attorney/client privilege and work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.

MR. ROBIE:
Q. Did he e-mail to you data that he stole from State Farm's computer as part of the trailer meeting in March or a later meeting in April?
MR. MALLETTE:
I object to the form. I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Let me show you a document which we'll mark collectively as Exhibit 5.
(Exhibit 5 was marked.)
MR. ROBIE:
Q. Have you had a chance to look at these printed e-mails which we've collectively marked as Exhibit 5?
A. I invoke my Fifth Amendment rights in response to that question.
Q. I'll direct your attention to the top of each one of these e-mails,

specifically to the initials ALD. Do you see that?
A. I invoke my Fifth Amendment rights in response to that question.
Q. In fact, the initials ALD are the initials of Anthony L Dewitt, the lawyer from Missouri that met with you and the Rigsbys and others in the trailer in Pascagoula?
MR. MALLETTE:
I object to form and on attorney/client and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Tony Dewitt was a not a regular recipient of e-mails on the State Farm either met system, was he?
MR. MALLETTE:
Object to form.
MS. NICHOLSON:
Join.

A. I invoke my Fifth Amendment rights in response to that question.
Q. In fact, each of these e-mails is apparently printed from Mr. Dewitt's system after he uploaded them from State Farm's confidential computer database, aren't they?
MR. MALLETTE:
Object to the form. Object on work doctrine and attorney/client privilege grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did Anthony Dewitt circulate these State Farm e-mails after he uploaded them and printed them following your meetings in the trailers?
MR. MALLETTE:
Object to the form. Object to attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.

A. Any voc my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you help him select which State Farm e-mails he would upload while you were working in that trailer?
MR. MALLETTE:
I object on attorney/client privilege, Work Product Doctrine grounds and object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Which of the lawyers in attendance at the first of these trailered meetings participated in the selection process on what information Mr. Dewitt would upload?
MR. MALLETTE:
Object to the form. Object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.

A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Let me show you another set of e-mails which I'll collectively mark as Exhibit 6.
(Exhibit 6 was marked.)
MR. ROBIE:
And for the record, these e-mails were produced by Mr. Scruggs in response to our document request, and they bear document identification numbers S MPH 1-000976 through 991.
MR. MALLETTE:
I'm sorry was it 976 through 991.
MR. ROBIE:
That's correct.
MS. NICHOLSON:
Mr. Robie, I have a question for you on Exhibit 5. On Exhibit 6, you just identified where the documents came from. Can you identify where Exhibit 5 came from?
MR. ROBIE:
I don't remember, off the top of my head. They're a Rigsby production, I think.

Yeah. I think they're documents produced by the Rigsbys.
MS. NICHOLSON:
To all parties?
MR. ROBIE:
Yes. They have not produced anything just to State Farm.
MS. NICHOLSON:
Okay. I am talking about the documents that have been sent to them pursuant to the court order --
MR. ROBIE:
No. No. These would have been documents produced by the Rigsbys either through your office or Mr. Scruggs' office to State Farm.
MS. NICHOLSON:
Which we produced to you; is that right? Is that what you are saying?
MR. ROBIE:
The Rigsbys produced to us, yes. For the record, these were produced last winter pursuant to our subpoena and ordered by Judge Walker, produced by the Rigsbys. That would be Exhibit 5.

Exhibit 6 are documents that Mr. Scruggs just produced to us last week.
Q. Have you had a chance to look at Exhibit 6?
A. I invoke my Fifth Amendment rights in response to that question.
Q. How many times did you meet with the Rigsbys, Tony Dewitt, your father and other lawyers in a trailer in Pascagoula?
MR. MALLETTE:
Is there a time frame to that question?
MR. ROBIE:
In the period January '06 through July 1, '06.
MR. MALLETTE:
I object to attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join and object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. If you go down to document 000985, you will see that Mr. Dewitt has printed

this document out as A L Dewitt instead of ALD. Do you know under which circumstances he would print off his system using the shorthand as opposed to the longer version?
MR. MALLETTE:
I object to the form. I object to attorney/client privilege and Work Product Doctrine grounds, also.
MS. NICHOLSON:
I join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Mr. Scruggs, can you tell us, please, what happened to the rest of the e-mails that are not printed out -- that's a bad question. Most of these e-mails only show one piece of an e-mail string. The rest is either redacted or it's just not copied. Where could I find the full set of these e-mails?
MR. MALLETTE:
I object on work product and attorney/client privilege grounds.
MS. NICHOLSON:

And I object to the form, as well.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Do you still have those?
MR. MALLETTE:
Object on attorney/client privilege and work product and I object as to form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. When did you come to have these documents which you produced to us last week?
MR. MALLETTE:
I object to the form. I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:

Q. The earliest of these e-mails is dated October 5, 2005. Did you start receiving these e-mails in October -- actually, the earliest one is September 9, '05. Did you start receiving these e-mails in September of '05?
MR. MALLETTE:
I object to the form and I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. The second oldest one is October 5. As of October 5, were you receiving e-mails from inside the State Farm operation?
MR. MALLETTE:
I object to the form. I object to the form of the question.
MS. NICHOLSON:
Join.
MR. MALLETTE:
Mr. Robie, I'll withdraw -- on the

last question, I'll withdraw the attorney/client work product if your question was limited to October 2005.
MR. ROBIE:
It was.
MR. MALLETTE:
On that question.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. How about those e-mails that emanated on dates of January of 2006, were you regularly receiving these e-mails as of those dates?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
MR. ROBIE:
Let me rephrase it.
Q. Did you receive those e-mails in January of 2006?
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:

Q. Who sent these to you?
MR. MALLETTE:
I object to the form. I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
Q. The second e-mail in Exhibit 6, which is document 009777 attaches two photographs. Where are those photographs?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join and object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Can you explain to us why you didn't produce the photographs, along with these documents, last week when you turned them over to us?
MR. MALLETTE:

Object to the form and attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did these e-mails which you turned over to us last week, did these come to your firm from the Rigsbys or did they come from Tony Dewitt?
MR. MALLETTE:
Object to the form, objecting on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. Any voc my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did this he come from a source other than the Rigsbys or Tony Dewitt?
A. I invoke my Fifth Amendment rights to that question.

MR. MALLETTE:
I object to the form and attorney work product.
MS. NICHOLSON:
Join.
MR. ROBIE:
What's wrong with the form?
MR. MALLETTE:
It assumes they came to him. The same objection as I had in the other question.
MR. ROBIE:
Q. Did these e-mails come to your firm from some source other than the Rigsbys or Anthony Dewitt?
MR. MALLETTE:
I object on attorney/client privilege and work product grounds.
MS. NICHOLSON:
Join.
A. Any voc the fifth.
MR. ROBIE:
Well, since he's given them to us, I think he's waived those privileges, hasn't he?

MR. MALLETTE:
I disagree. I think the compelled production does not compel his discussion of the documents.
MR. ROBIE:
I'm not asking about discussions. I'm asking about source, where they came from.
MR. MALLETTE:
And I don't think he can be compelled to discuss who he got them from.
MR. ROBIE:
Q. Was there at any time any other State Farm insider that furnished documents to you or your firm?
A. I invoke my Fifth Amendment rights in response to that question.
MR. MALLETTE:
And I object to the form of the question.
MS. NICHOLSON:
Join.
MR. ROBIE:
Q. Was part of your responsibility in prosecuting the McIntosh case to poison the

jury pool through furnishing false information to the press?
MR. MALLETTE:
Object to the form, attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. Any voc my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. That was an assignment you under took on a regular basis, wasn't it?
MR. MALLETTE:
I object to the form on attorney/client privilege and work product doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Who is Michael Kunzelman?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Michael Kunzelman is an Associated

Press reporter, is he not?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Among the documents you furnished to us are probably in excess of 100 pages of e-mails between you and various reporters. How much time, in an average week, did you spend communicating with reporters about McIntosh and the Katrina claims?
MR. MALLETTE:
Object on Work Product Doctrine grounds.
MS. NICHOLSON:
Join, and object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Is this a part of your practice which had been refined and honed as a result of the tobacco litigation?
MR. MALLETTE:
Object to the form. Object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:

I join.
A. And I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Let me show you Exhibit 7 or a document I'll mark as Exhibit 7
(Exhibit 7 was marked.)
MR. ROBIE:
And, unfortunately, I only have two of these. It's a Scruggs document SMPD1-000843
MR. WALKER:
Read that number again.
MR. ROBIE:
SMPD1-000843.
MR. MALLETTE:
And for the record, these are the Bates Numbers as you received them?
MR. ROBIE:
Yes. We put them on there, just so we have a clear understanding, when the documents came in, we took them in exactly the order they were produced and we numbered them so we would have a control set of what was delivered to the attorneys' offices. I

think Ben Mullen has the original set, if we have an original marked set, if you want to check them against each other. We brought both control sets.
Q. Mr. Scruggs, this is a series of e-mails, two pages of e-mails which your firm produced that shows communications between you and Michael Kunzelman on March 17, 2006, which is the transmission of a series of copies of engineering reports.
Can you tell me, please, which engineering reports you were faxing over to Mr. Kunzelman that day?
A. I invoke my Fifth Amendment rights in response to that question.
MS. NICHOLSON:
Object to the form. Are you looking at Exhibit 7? Is this a new exhibit?
MR. ROBIE:
It is a new exhibit.
MS. NICHOLSON:
May I see it? Thank you.
MR. ROBIE:
You didn't bring any of the documents that the Scruggs people turned

over?
MS. NICHOLSON:
I certainly did. I brought them all but I don't know which documents you are submitting because I hadn't seen them.
MR. ROBIE:
Q. Did you include in the material that you faxed to Mr. Kunzelman that day copies of the McIntosh Forensic Engineering reports?
A. I invoke my Fifth Amendment rights in response to that question.
Q. The first page --
MR. MALLETTE:
And I object to the form.
MR. ROBIE:
I'm, again, trying to work on -- I don't want to have bad form. I'm trying to clean those up. Can you tell me what's wrong with the form?
MR. MALLETTE:
I think you can clear it up if you would be specific as to what engineering report or reports you are talking about.
MR. ROBIE:

Okay.
Q. As part of this March 17, 2006 transmittal to Mr. Kunzelman, did your office send him either the October 12, 2005 or October 20, 2005 Forensic Engineering reports of the McIntosh property?
A. I invoke my Fifth Amendment rights in response to that question.
Q. The first page of this, which is the back sheet of it, says, we got this from a client of ours, not the whistle blowers. Can you tell me, please, which client furnished these engineering reports that were being sent to Mr. Kunzelman?
MR. MALLETTE:
I object on attorney/client work product grounds.
A. Any voc my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. And there's nothing in this e-mail that will allow us to identify which client gave these reports which you were forwarding onto an AP reporter?
A. I invoke my Fifth Amendment rights

in response to that question.
Q. You did not represent Mr. Kunzelman as an attorney, did you?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Have you ever represented Michael Kunzleman as a lawyer?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Let's take a look at the next document, which I'll mark as Exhibit 8. It's a three-page document.
(Exhibit 8 was marked.)
MR. ROBIE:
Q. Have you had a chance to look at the document, Mr. Scruggs?
A. I invoke my Fifth Amendment rights in response to that question.
Q. This is a March 17, 2006 e-mail you sent to Michael Kunzelman at 11:54 a.m., correct?
A. I invoke my Fifth Amendment rights in response to that question.
Q. The middle of the page has a message to you that reads, as follows: Zach, I

enjoyed meeting you and your father yesterday. Thanks for being so generous with your time. I have enclosed a copy of the story that ran last night. A shorter version moved on the Associated Press national lines.
Were you regularly meeting with Mr. Kunzelman in order to assist him in fashioning stories about Katrina that would assist you and your father?
MR. MALLETTE:
Object to the form and I object on work product grounds.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment in response to that question.
MR. ROBIE:
Q. And were you regularly meeting with Mr. Kunzelman or reporting to Mr. Kunzelman in order to furnish information to be disseminated to the public which would place your cases in a favorable light and would disparage State Farm?
MR. MALLETTE:

Object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. The article which Mr. Kunzelman delivers to you with this e-mail reads as follows, starting at the bottom of Page 1: A high-profile litigator says a whistle blower who works for a major insurance company is helping him build a case against insurers for denying thousands of claims by policyholders whose homes were reported destroyed by Hurricane Katrina.
Picking upon the next page, in an interview with the Associated Press on Thursday, Richard Dickie Scruggs said the highly placed insider gave him copies of internal reports prepared by engineers who were hired by an insurance company to inspect storm damage reports.
Other than the Rigsby sisters, can you tell me, please, the identity of any quote, unquote, highly placed insider

whoever gave you or your father any information about State Farm?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form and also Work Product Doctrine.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. One of the specific orders that Judge Senter made was that we're entitled to have presented to us whatever information your father received from, quote, unquote, highly placed insiderses as a result of a trip he made to Bloomington, Illinois, according to the AP, in March of '06. Did such a trip take place?
A. I invoke my Fifth Amendment rights in response to that question.
Q. In fact, that entire story is a lie, isn't it?
A. I invoke my Fifth Amendment rights in response to that question.
Q. In fact, Mr. Scruggs, your father

flew to Bloomington but did not meet with any insider, isn't that a fact?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Isn't it also a fact, Mr. Scruggs, that your father, in order to make the ruse seem even more real hired someone to bring him an empty box at the airport so that it would look as if he had information from an insider?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. You know that the version of those facts which I've just recited to you is factually correct, don't you?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. Any voc my Fifth Amendment rights in

response to that question.
MR. ROBIE:
Q. Did you at end this meeting? Did you go to Bloomington with your father?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Did he fly his own plane?
A. I invoke my Fifth Amendment rights in response to that question.
Q. What is the tail number of your father's plane?
A. I invoke my Fifth Amendment rights with response to that question.
Q. Let me show you a document which we'll mark as Exhibit 9. It has an old exhibit tag 3 on it.
(Exhibit 9 was marked.)
MR. ROBIE:
Can can we take a second and let me run a copy of these?
(Off the record.)
MR. MALLETTE:
We would ask that this deposition be sealed or at least sealed until the judge can rule upon the ceiling, that we will move

formally to have it sealed before it's released. It's my understanding that in the other depositions, where State Farm witnesses have taken the fifth, there's been a request to have it sealed and the court has granted that request. I didn't know that until today or I would have asked it before we sat down.

MR. ROBIE:

John, Dan?

MR. BANAHAN:

Go ahead and file it, and I think we can agree not do anything, you go ahead and get a motion filed until the court rules on it.

MR. MALLETTE:

That's all I ask. And we will try to file something either late today or tomorrow.

MR. ROBIE:

Q. We direct your attention to the bottom of Page 1 on this Exhibit 9?

MR. MALLETTE:

It's my understanding that Warren Braunig is no longer with us on the cell

phone, to the extent --

MR. ROBIE:

We'll miss him.

Q. Again, at the bottom of Page 1 of this Exhibit 9, it says, Scruggs said at an interview on March 30th that he plans to share documents from a highly placed State Farm source. He had flown to Bloomington a week earlier to pick up a package from the source. They gave me a bunch of good stuff and I'm going through it now and turning it over to the Attorney General, he said.

Where is the so-called good stuff that your father references in that article?

MR. MALLETTE:

I object to the form and I object to attorney/client privilege and Work Product Doctrine.

MS. NICHOLSON:

Join.

A. I invoke my Fifth Amendment rights in response to that question.

Q. Our request number 23 sought production of documents picked up or otherwise retrieved by Richard Scruggs from

a highly placed source at State Farm on a trip to Bloomington, Illinois, which Richard Scruggs referenced in March 30th in a March 2006 interview was granted. The objection that was made was that the production of these documents-they were objected to on the grounds of relevance and Fifth Amendment privilege. These objections were all specifically overruled by Judge Senter in his order of June 20, 2008.

Is there some new Fifth Amendment objection that wasn't presented to Judge Senter?

MR. MALLETTE:

I don't think Judge Senter -- in fact, I think he specifically has reserved any ruling on Fifth Amendment as to their testimony. I think he says that in one of his early orders that questions that the depositions are still there and to be raised or objections. But, no, there's no difference as to the document request, if that's your question.

MR. ROBIE:

Q. Is there a reason you haven't

produced any documents in response to that request?

MR. MALLETTE:

And is that question to the deponent?

MR. ROBIE:

Yes.

A. I invoke my Fifth Amendment rights in response to that question.

MR. ROBIE:

Q. In fact, you haven't produced any documents to us responsive to request number 23, have you?

A. I invoke my Fifth Amendment rights in response to that question.

MR. ROBIE:

Q. You do not now nor have you ever had any documents responsive to request number 23, have you?

A. I invoke my Fifth Amendment rights in response to that question.

Q. The quote that your father gave to the AP reporter in an interview on March 30th is an example of the kind of false information that he willingly spreads to the

press in order to place State Farm in a bad light in his prosecution of claims against the company for Katrina losses; isn't that a fact?
MR. MALLETTE:
Object to the form. Object on attorney/client privilege Work Product Doctrine.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. The next document, which I'll show you -- we should have made copies of all of these. We have two of these. We'll mark as Exhibit 10.
(Exhibit 10 was marked.)
MR. ROBIE:
Q. Have you had a chance to look at Exhibit 10, Mr. Scruggs?
A. I invoke my Fifth Amendment rights in response to that question.
Q. This is an AP story from Michael Kunzelman, which went on the wire, it looks

to me, like on April 10, 2006. Is that what it looks like to you?
A. I invoke my Fifth Amendment rights in response to that question.
Q. The story from April 10, 2006 says, Zach Scruggs, one of Lott's attorneys, says his client has a good faith belief that several State Farm employees in Biloxi are destroying engineering reports that gave conflicting conclusions about whether wind or water was responsible for storm damage.
Which clients gave you that so-called good faith belief, Mr. Scruggs?
MR. MALLETTE:
Object on attorney/client privilege and Work Product Doctrine grounds?
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. The Rigsbys didn't give you information suggesting that State Farm was destroying engineering reports, did they?
MR. MALLETTE:

I object on attorney/client and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
Q. The second page of this Exhibit 10 goes onto say, in an interview Monday, Scruggs said corporate whistle blowers who are cooperating with Lott's attorneys have provided evidence that State Farm employees are destroying or moving these initial favorable engineering reports.
Did you intend to communicate with Mr. Duns will man that Cori and Kerri Rigsby had furnished that information to you?
MR. MALLETTE:
I object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. It goes onto say, quote, we believe that this is a systematic practice, says

Scruggs, who is Lott's nephew by marriage.
You are Senator Lott's nephew by marriage, aren't you?
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Your mother is Senator Lott's -- your mother is the sister of Senator Lott's wife, correct?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Has your family furnished Senator Lott with any financing or financial remuneration as a result of his assistance in the McIntosh or other Katrina litigation?
MR. MALLETTE:
Before he answers, I need to speak with him because I need to ask about an objection. I don't know whether to raise it or not.
Can we step out for a second?
(Off the record.)
MR. MALLETTE:
Jim, you finished your question. I have an objection on attorney/client

privilege and Work Product Doctrine grounds. For the record, I object to your last question on attorney/client work prod October doctrine grounds.
MS. NICHOLSON:
We join. We object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. In fact, your mother provided the financing to her sister in order for Senator Lott and Patricia to buy the home they live in called S U B R O S A; isn't that the case?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Were you involved in seeking the assistance in Senator Trent Lott in talking to Brian Ford as part of your work on the McIntosh case?

MR. MALLETTE:
I object to the form. I object on Work Product Doctrine and attorney/client privilege grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Has it been your custom and habit in prosecuting litigation to have Senator Lott contact and encourage witnesses to give false information?
MR. MALLETTE:
Object to the form. Object on attorney/client -- work product and attorney/client privilege grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Senator Lott did speak to Brian Ford and urged him to become a consultant in the McIntosh matter, did he not?

MR. MALLETTE:
I object to the form. I object on attorney/client and work product grounds.
MS. NICHOLSON:
Join.
A. Any voc my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Senator Lott also spoke to one or both of the Rigsby sisters and urged them to continue their efforts in assisting your father in prosecution of the McIntosh case, did they not? Or did he not?
MR. MALLETTE:
I object to the form. I object on Work Product Doctrine grounds and I object on attorney/client privilege grounds.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Kerri Rigsby was an adjuster who actually was involved in handling the McIntosh claim, correct?

A. I invoke my Fifth Amendment rights in response to that question.
Q. The first time she went to the property, she found such extensive flood damage that she gave Mr. McIntosh a check which she believed he was fairly owed for flood damage. You know that to be the case, don't you?
MR. MALLETTE:
I object on attorney/client and work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. She also has testified that the revised report on Forensic Engineering's analysis of damage to the McIntosh home was more accurate than the first one because it included mention of the flood damage which she had already paid for. You are aware of that, aren't you?
MR. MALLETTE:
Object to the form.

MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. You also know that Judge Senter has ruled that there was no fraud committed by State Farm in the McIntosh case as a matter of law, don't you?
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Is it your custom and habit to report false information to newspaper and television reporters contrary to the information given to you by your own clients?
MR. MALLETTE:
I object to the form and all attorney/client work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:

Well, we just looked at an article about your good faith belief that State Farm was destroying engineering reports. Are you aware that Kerri and Cori Rigsby have testified that they have no information whatsoever to suggest that State Farm shredded any document?
MR. MALLETTE:
I object to the form. I object on work product and attorney/client privilege grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights to that question.
Q. The deposition, which was defended by Sid Backstrom, earlier this year, included extensive discussion with the Rigsbys in which they confirmed that they had no information, whatsoever, to suggest that State Farm had improperly destroyed or shredded a document. Is today the first time you've heard that that's their sworn testimony?
MR. MALLETTE:

Object to the form. Object on work product and attorney/client privilege grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. If we look at Exhibit 10, which is your April 11 e-mail to Mr. Kunzelman, you write to him, off the record, we believe most of the incriminating first reports were moved off site before this became news. In fact, Mr. Scruggs, you cannot identify a single instance in way so-called incriminating first report was moved off site by the State Farm Katrina catastrophe office, can you?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form. Also Work Product Doctrine.
A. I invoke my Fifth Amendment rights in response to that question.

MR. ROBIE:
Q. There is it no instance in which you can identify or which you can identify in which State Farm's operations personnel moved a so-called incriminating report off site to make it unavailable or difficult to find; isn't that a fact?
MR. MALLETTE:
Object on attorney/client and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Isn't it a fact, Mr. Scruggs, that State Farm has an obligation as a responsible company to protect the privacy of its customers by destroying confidential records when there's no longer a good faith or good business reason to maintain them?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.

A. Any voc my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Has any money, anything of value or any money passed between anyone at the Scruggs law firm or SKG and Robert Oswald following his purchase of Kerri Rigsby's home?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Did anyone at the Scruggs law firm or SKG locate the buyer for that house?
MR. MALLETTE:
I object on attorney/client privilege and work product grounds.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. When was the last time that carry or Cori Rigsby gave your firm or anybody affiliated with you a document that purported to come from State Farm's operation?
MR. MALLETTE:
Object on attorney/client privilege

and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you or anyone at the Scruggs law firm or SKG loan the Rigsbys any money?
MR. MALLETTE:
Object on attorney/client privilege work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you or anyone at the Scruggs law firm or SKG guarantee repayment for any loans for the Rigsbys?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights.

Q. Did Pat Lobrano negotiate with you on carrying Kerri Rigsby's compensation package from SKG?
MR. MALLETTE:
I object on work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my fifth amend the rights.
MR. ROBIE:
Q. Who did she negotiate with?
A. I object on attorney/client privilege and work product grounds.
MS. NICHOLSON:
I object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Have you or anyone affiliated with your law firm or SKG provided any financial benefits or compensation to pat Lobrano or her husband?
MR. MALLETTE:
Let me have one more break, here. I'm sorry about that.
MR. MALLETTE:

I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
MR. MALLETTE:
Back on the record, I object to the last question on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
And we join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Could I see that last question?
Have you or anyone affiliated with your law firm or SKG provided any financial benefits to pat Lobrano or her husband in consideration for their soliciting Kerri or Cori Rigsby's work on your behalf?
MR. MALLETTE:
Object to t[illegible]form. I object on attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.

A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. How long have you known Joe Rhee?
A. I invoke my Fifth Amendment rights in response to that question.
Q. How many times did you talk to Joe Rhee before the 20/20 segment was videotaped here in Mississippi?
A. I invoke my Fifth Amendment rights in response to that question.
Q. How many times did you talk to Joe Rhee to make arrangements for him to contact the Rigsbys?
A. I invoke my Fifth Amendment rights in response to that question.
MR. MALLETTE:
And I object to the form.
MS. NICHOLSON:
And I join.
MR. ROBIE:
Q. How many times did you talk to Joe Rhee to assist his contacting Brian Ford?
MR. MALLETTE:
I object to the form.

MS. NICHOLSON:
Join.
A. Any voc my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. How many times did you talk to Thomas McIntosh seeking to convince him to become involved in the 20/20 exposé?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.
MR. MALLETTE:
And as to form. Excuse me.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. I'll show you an e-mail marked Exhibit 11.
(Exhibit 11 was marked.)
MR. ROBIE:
Q. Did you take responsibility for

assisting Mr. Reed in concluding all of the details that needed to be taken care of in order to get the 20/20 show videotaped here in Mississippi?
MR. MALLETTE:
I object on work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. How many conference calls did you participate in with Mr. Reed and your father prior to the shooting of the 20/20 segment?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Isn't it a fact that you and your father made it clear to Joe R E that State Farm would have no information about the October 12th Forensic Engineering report on the McIntosh property prior to airing this show because the Rigsbys had stolen that document from State Farm's records?
MR. MALLETTE:
I object to the form. I object on

attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. And, in fact, State Farm was confronted by 20/20 over the fact that the document was not known to State Farm, and you knew that that would take place before the 20/20 segment was shot, didn't you?
MR. MALLETTE:
Object to the form. Knew what would take place?
MR. ROBIE:
That State Farm would be confronted over its lack of knowledge of a document that the Rigsbys had stolen from its files.
MR. MALLETTE:
I object to the form. I object on attorney/client privilege, Work Product Doctrine grounds.
MS. NICHOLSON:
Join.

A. Any voc my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. You knew that they would confront State Farm with the October 12, 2005 Forensic Engineering report authored by Brian Ford, didn't you?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join. Also work product.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Let me see if I can make it as perfect as possible.
Q. You knew in advance of videotaping the 20/20 segment that Brian Ford or Joe R E and Brian Ross would confront State Farm with the October 12, 2005 engineering report of Brian Ford regarding the McIntosh property, didn't you?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:

And I join.
A. Any voc my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. And you knew in advance of videotaping the 20/20 segment that State Farm would have no knowledge of the October 12th, 2005 report by Brian Ford on the McIntosh property because the report had previously been stolen by the Rigsbys from State Farm's records; isn't that a fact?
MR. MALLETTE:
Object to the form, to attorney/client privilege, on attorney/client privilege grounds and on Work Product Doctrine grounds.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. You also knew that it was likely State Farm would only come to know about the McIntosh October 12, 2005 Forensic Engineering report by reason of its

disclosure on 20/20; isn't that a fact?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join, and also work product.
MR. MALLETTE:
And I'll object on work product grounds, also.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. It is also a fact, isn't it, Mr. Scruggs, that you and your father and Chip Robertson, Anthony Dewitt, Mary winter, Todd grave and pat Lobrano accessed the McIntosh claim file while you were meeting in Mr. Scruggs' trailer in Pascagoula to verify that the October 12, 2005 report did not exist in State Farm records, nor did any copy of that report exist in State Farm's records.
MR. MALLETTE:
I object to the form. I object on attorney/client privilege and I object on the Work Product Doctrine grounds.

MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. How many times did you or someone on your behalf access the McIntosh claim file to verify that State Farm had no copy of the October 12, 2005 Brian Ford McIntosh report in its files?
MR. MALLETTE:
I object to the form and on Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Let me show you a document which we'll mark as Exhibit 12.
(Exhibit 12 was marked.)
MR. ROBIE:
For the record, Exhibit 12 is Scruggs document SMP D1-000933 and 34. It's a two-page document.

Q. Mr. Scruggs, have you had a chance to look at this document?
A. I invoke my Fifth Amendment rights in response to that question.
Q. This is another e-mail you sent to Michael Kunzelman, this time on October 19, 2006. Correct?
A. I invoke my Fifth Amendment rights in response to that question.
Q. This is a message to Mr. Kunzelman informing him that State Farm and Lecky King's lawyers are trying to seal her testimony taking the Fifth Amendment from the public, right?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Well, Lecky King was asserting her Fifth Amendment rights and was doing so in a confidential manner pursuant to court order, wasn't she?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights

in response to that question.
MR. ROBIE:
Q. Did you consider it was appropriate for you to notify Mr. Kunzelman in violation of that court order that Ms. King was asserting her Fifth Amendment rights?
MR. MALLETTE:
I object on work product grounds and I object as to form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Let me show you the next document, which we'll mark as Exhibit 13. It's a single page document bearing SMP D1-002369.
(Exhibit 13 was marked.)
MR. ROBIE:
Q. This is a follow-up e-mail that you exchanged with Mr. Kunzelman about the Lecky King deposition, isn't it?
A. I invoke my Fifth Amendment rights in response to that question.
Q. The final line in the string of

e-mails says, quote, mind if I check in tomorrow, once you finish the deposition? If she takes the fifth and refuses to answer all questions, we might do a short story. Pair did he follow up with you?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Did you tell him that Alexis king, also known as Lecky King, invoked the Fifth Amendment at her deposition?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Did you urge him to do a story about Ms. King and her deposition?
A. I invoke my Fifth Amendment rights in response to that question.
Q. As part of the 20/20 show, there was a videotape of an interview with State Farm spokesman named Wayne drink water. Do you recall that?
A. I invoke my Fifth Amendment rights in response to that question.
Q. The outtakes of that videotape were requested by Courtney Schloemer on behalf of the Attorney General of the state of

Mississippi through your office, weren't they?
MR. MALLETTE:
I object on attorney/client and work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. How many times have you met with Courtney Schloemer to discuss the Attorney General's activities vis-a-vi State Farm while you were prosecuting the McIntosh case?
MR. MALLETTE:
I object on attorney/client privilege grounds and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Let me show you a document which

we'll mark as Exhibit 14. It's Scruggs document SMP D1-0023072 ck check the number.

(Exhibit 14 was marked.)

MR. MALLETTE:

I object to the entry in the record until I can investigate it further of the top part of this document, which is an internal conversation between Sid Backstrom and Zach Scruggs, and if we inadvertently produced it, unless that privilege is otherwise been waived, which I have no knowledge that it has, then we would ask that the top part of this be redacted.

MS. NICHOLSON:

We would join.

MR. ROBIE:

I would respectfully decline to do so. There has been no privilege log at any time on any document from Scruggs firm despite, as I recall it, nine months of requests for documents. This has been going on forever.

MR. MALLETTE:

And I think either Judge Walker or Judge Senter specifically noted that a

nonparty to a case has no such duty to produce a witness log. And I reraised the same objection. It's been my practice in depositions if there's an inadvertent disclosure that that disclosure -- and I'm not trying to over limit the disclosure here, Jim, but the top part looks like it was inadvertently disclosed.

MR. ROBIE:

I don't understand why there would be any reason to redact that. It's a conversation with a --

MR. MALLETTE:

It's a conversation --

MR. ROBIE:

Two people in a law firm about a request by a third party.

MR. MALLETTE:

It's a conversation between two people in a law firm that I assume you think is relevant to a case they were representing or you wouldn't be asking about it.

The bottom part of it, I don't have the same objection. The top part, I do.

MR. ROBIE:

Well, I think we're going to have to agree to disagree. I think the fact that Ms. Slummer is asking for information about the 20/20 broadcast and about information available to the Scruggs firm in its civil cases violates at least two court orders that I'm aware of, one by judge Simpson and one by judge pre sock.

MR. MALLETTE:

I don't see that she is copied on this e-mail. I see this as a communication between Sid and Zach. I don't know how it's been produced or whether it's been produced before. If it has and the privilege isn't there, I'll withdraw it, but for the time being, it looks like an inadvertent disclosure and I'm going to ask that it not be included in the record.

MR. WEATHERLY:

Just so are clear, your only objecting to the top part of the e-mail?

MR. MALLETTE:

Yes.

MR. TWIFORD:

There's not a claw back agreement

between the hunter law firm and the Scruggs law firm?

MR. MALLETTE:

Tell me what you mean by a claw back agreement.

MR. TWIFORD:

That covers production of inadvertent e-mails.

MR. MALLETTE:

Not that I'm aware of. I think the Mississippi rules suggest a return of an inadvertent disclosure. I can't answer that while I sit here in the deposition. That's always been my practice with other depositions when what appears to have occurred has occurred in this case. That's how I see it.

MS. NICHOLSON:

Certainly it's a federal rule.

MR. ROBIE:

I can't see how there's a privilege here. Also, if you take the position on the one hand that you have no obligation to furnish a privilege log, and then you are now asserting a privilege, are there other

documents that you've withheld because of a privilege?
MR. MALLETTE:
I'm not going to testify as to the documents produced, but I will say that that is an obvious communication between two attorneys within a single law firm. It's not a disclosure to a third party. If there has been an inadvertent disclosure it has occurred at some other point.
If I find that it was an intentional disclosure where that went to a third party, so far, I haven't heard that, then I may rethink my position, Jim.
MR. ROBIE:
I just don't see the privilege. I don't see it --
MR. MALLETTE:
You don't see it as a privilege, two lawyers in a law firm communicating about a case?
MR. ROBIE:
No. They're asking about a request for an out take of an interview with a State Farm witness and they're communicating back

ABC's refusal to make it available. I don't think that's a privileged communication.
MR. MALLETTE:
We disagree. We object to its inclusion. We will include that in a motion we take up with the court on the ceiling.
MR. ROBIE:
Very well.
MR. MALLETTE:
Can give me the date of that again, Jim?
MR. ROBIE:
It's Friday, October 20, 2006. It's your document -- well, you won't have the number on it, so it probably won't help you.
MR. MALLETTE:
But it's your document what?
MR. ROBIE:
SMP D1-002372. Can we go off the record for a second?
(Off the record.)
(Exhibit 15 was marked.)
MR. ROBIE:
Q. I've placed in front of you a document which I've marked for

identification as Exhibit 15, I believe, and I ask you to look at that. Have you had a chance to look at that?
A. I invoke my Fifth Amendment rights in response to that question.
Q. For the record, Exhibit 15 is a Scruggs document SMP D1-002263 through 67. This is an e-mail you sent to Anita Leon August 7th, 2007, at 8:41, isn't it, Mr. Scruggs?
MR. MALLETTE:
Can you repeat the question for me, please?
MR. ROBIE:
Q. This is an e-mail you sent to Anita Lee on August 7th, 2007, at 8:41 a.m., isn't it, Mr. Scruggs?
A. I invoke my Fifth Amendment rights in response to that question.
Q. As of August 7th, 2007, you were representing the Rigsbys in the qui tam proceeding which is the subject of the motion that's attached to this e-mail?
A. I invoke my Fifth Amendment rights in response to that question.

MR. MALLETTE:
And I object on work product attorney/client privilege grounds.
MR. ROBIE:
Q. Well, as of August 7th, your firm had filed a motion on behalf of the relators or relators depending on regional choice of pronunciation motion to lift the seal on the qui tam proceeding, hadn't you?
MR. MALLETTE:
I withdraw my last attorney/client privilege objection. Jim, if you don't mind, would you reread your previous question?
MR. ROBIE:
The one I just asked or the one before it?
(Wherein, the question was read back.)
MR. MALLETTE:
I withdraw my objection to work product attorney/client grounds on that question. He maintains his Fifth Amendment objection.
MR. ROBIE:
Let me see if I can get us back on

track, here.
Q. As of August 7th, 2007, your firm, along with two other firms from the state of Missouri, represented the Rigsbys as relators in the qui tam proceeding which bore a case number 06 CV 443 W J G here in the district court for the southern district of Mississippi, didn't you?
A. I invoke my Fifth Amendment rights in response to that question.
Q. And as of August 7th, your firm and your co-counsel had filed a brief on behalf of the Rigsbys to lift the seal which was keeping that case, that qui tam proceeding outside of the public domain, hadn't you?
MR. MALLETTE:
I object on work product grounds. Can you repeat the question, also?
Q. As of August 7th, 2007, your firm and your co-counsel had filed a brief with the United States District Court to lift the seal which made the qui tam proceeding confidential?
MR. MALLETTE:
I withdraw my work product objection

to that last question. Go ahead.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. And in response to the motion that you and your co-counsel had filed to lift the seal, the government of the United States of America filed a brief in opposition, didn't they?
A. I invoke my Fifth Amendment rights in response to that question.
Q. The brief of the United States in opposition to the Rigsbys' motion to lift the seal was filed under seal, wasn't it?
A. Mill the brief of the United States?
MR. ROBIE:
Yes.
MR. MALLETTE:
Can I have a brief second?
MR. ROBIE:
Sure. Not regarding his testimony.
(Off the record.)
MR. MALLETTE:
Can you reread the question and get us back into it?

MR. ROBIE:
Q. The brief of the United States Government in opposition to your motion to lift the seal was, itself, filed under seal, wasn't it?
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
While we were off the record, I had a discussion with my co-counsel because I -- there's some things that I'm just not familiar enough with, in terms of the proceedings and agreements that have been made at depositions, and I think Dan and John have --
MR. WEBB:
Related to the document that you had asked that a portion of it be redacted, I don't remember the Exhibit Number, 14, the last four numbers were 2372 in the Bates Number series, the consent protective order entered in this case applies to non parties who produce, as well as who don't, as well as to parties, and you have a right under that to declare something confidential, but

we would hope that you would, as you suggested, include that. And pursuant to that protective order, the document wouldn't be disclosed outside the context of the folks here in this room until a ruling by the court.
MR. MALLETTE:
I appreciate that information. It's new to me, as well, and I would declare that that document be included as confidential, but we also will take the issue to the court, rather than making you unseal it, we'll raise the issue.
MR. ROBIE:
It's afternoon. I'm a little hungry. Is there any chance we can take at least a short lunch break? I can go through my notes and maybe shorten this up a little bit. We're not going to be done within the next 60 minutes and I need a break. I need some food.
(Off the record.)
MR. ROBIE:
Q. Mr. Scruggs, did you or anyone at the Scruggs law firm or SKG hire Brian

Ford's attorney to represent him at his deposition in the McIntosh case?
MR. MALLETTE:
Object on attorney/client work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. ROBIE:
Q. Did you or anyone at the Scruggs law firm or SKG agree to cover or pay Brian Ford's attorney's fees for his representation at his depo in the McIntosh case?
MR. MALLETTE:
Object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you or anyone at the Scruggs law firm or SKG contact Courtney Schloemer at

the Attorney General's office with respect to Brian Ford in the McIntosh case?
MR. MALLETTE:
I object in.
A. I invoke my Fifth Amendment rights in response to that question.
Q. Isn't it a fact that you and your father agreed at the request of Courtney Schloemer to not pay Brian Ford until after he testified at the Grand Jury?
MR. MALLETTE:
I object to the form, attorney Work Product Doctrine.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Who is it that thought up that strategy?
MR. MALLETTE:
I object to the form and I object to attorney Work Product Doctrine.
MS. NICHOLSON:
We join.
A. I Fifth Amendment rights.
Q. Did Derek Wyatt keep you apprised as

to his e-mail and telephone communications? Nil mill I object on attorney work product grounds.
A. I invoke my Fifth Amendment rights.
Q. Who at SKG was supervising Derek Wyatt in his work on the McIntosh case?
MR. MALLETTE:
I object on Work Product Doctrine and attorney/client privilege.
MS. NICHOLSON:
We join and also would suggest that's ranging a little far field of what Judge Walker has said the scope of this deposition is. The way I understand your question, it's not even directed towards any of these topics. It's just generally how did you all handle these cases internally at the law firm. I don't think that's an appropriate.
MR. ROBIE:
I'll do a little better than that. Let me see if I can help you. Let me ask him some specific questions.
MR. ROBIE:
Q. Derek Wyatt issued more than one

illegal subpoenas in order to improperly obtain computers from Forensic Engineering. Who supervised his work, him doing that?
MR. MALLETTE:
I object to the form and I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you know, in advance of Mr. Wyatt's strategy to improperly obtain Neil I Williams' computer that he was going to initiate that strategy?
MR. MALLETTE:
I object to the form. I object on work product doctrine grounds and attorney client privilege grounds.
MS. NICHOLSON:
And I join in that, and also, Nellie Williams, as far as -- again, is not within the scope of the deposition as set out by Judge Walker.

MR. MALLETTE:
And I join in that objection, as well.
MS. NICHOLSON:
I don't think Judge Walker intended this to be a fishing expedition to obtain the attorneys' mental impressions about every aspect of the case. I think it's a very specific area of discussion in deposition.
MR. ROBIE:
Could we have an answer?
MR. MALLETTE:
I thought we had answered, but I've objected. Can you give your answer, please?
A. I invoke my Fifth Amendment rights in response to that question.
MS. NICHOLSON:
And we join again.
MR. ROBIE:
Q. Where is the Nellie Williams computer hard drive current live located?
MR. MALLETTE:
Object to the form and I object on Work Product Doctrine grounds.

MS. NICHOLSON:
Join. And we also object as exceeding the scope of the deposition.
A. I invoke my Fifth Amendment rights in response to that question. Rope rope who has copies of the State Farm documents that were made part of the evidentiary disclosure in the qui tam litigation?
MR. MALLETTE:
I object on Work Product Doctrine grounds and attorney client privilege grounds.
MS. NICHOLSON:
Join and also as exceeding the scope of this deposition.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. The qui tam evidentiary submission says that Cori, Kerri and pat were astonished at pat's allegations. Is the pat referred to pat will he brawn?
A. I invoke my fifth amend the rights.
MR. MALLETTE:
And I object on attorney work

product grounds.
MS. NICHOLSON:
We join.
MR. ROBIE:
Let me mark as Exhibit 16 --
(Exhibit 16 was marked.)
MR. ROBIE:
Q. Mr. Scruggs, who is Beth Jones?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Isn't it a fact that Beth Jones is an assistant to your father, Dickie Scruggs?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Is Pat Lobrano one of your clients in the qui tam action?
A. I invoke my Fifth Amendment rights in response to that question.
Q. At the time Beth Jones sent this e-mail -- incidentally, Exhibit 16 is Scruggs document SMP D1-000567, dated June 6th, 2007. At the time Beth Jones sent this e-mail to someone named Ray at CBC news, was the First Amended Complaint in the false claim act still under seal?

A. I invoke my Fifth Amendment rights in response to that question.
Q. How many news media sources did the Scruggs law firm send the First Amended Complaint in the false claim act to while it was still under seal?
MR. MALLETTE:
Object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MS. NICHOLSON:
And we object to the question as exceeding the scope of this deposition.
MR. ROBIE:
Q. The trip wire, if you will, in the false claim act is the McIntosh claim, is it not?
MS. NICHOLSON:
Object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. And, in fact, in both the original false claim act complaint and the first amended false claim act complaint, the

McIntosh case is effectively the point of the spear in the action. It's where the process begins and ends for the realtors, isn't it?
MR. MALLETTE:
I object to the form and I object on attorney work product ground.
MS. NICHOLSON:
Join and in seeding the scope of the deposition.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. How many media sources were sent copies of the original false claim act complaint which was filed under seal before the seal was lifted?
MR. MALLETTE:
I object on work product grounds and I object as to the form of the question.
MS. NICHOLSON:
I join and also object to it as exceeding the scope of this deposition.
A. I invoke my Fifth Amendment rights in response to that question.

MR. ROBIE:
Q. Do you, your father or the Scruggs law firm have any continuing financial interest in the qui tam litigation?
A. I invoke my Fifth Amendment rights in response to that question.
MS. NICHOLSON:
We also object to that question as exceeding the scope of this deposition.
MR. ROBIE:
Q. What other financial interests do you have with the Rigsbys?
MR. MALLETTE:
Object to the form and I object on attorney/client work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Do you have any on going financial arrangements with the Rigsbys?
A. I invoke my Fifth Amendment rights in response to that question.
MR. MALLETTE:

And I object on attorney/client privilege grounds.
MS. NICHOLSON:
Join, and also work product.
MR. ROBIE:
Let's mark as Exhibit 17 -- maybe we should just have a continuing objection to every question I ask. It could save time.
MS. NICHOLSON:
We would like the record to be clear.
MR. MALLETTE:
Certainly questions about their relationships with the clients. But, no, we will go through one at a time.
MR. ROBIE:
I'm happy to do it that way.
(Exhibit 17 was marked.)
MR. ROBIE:
For the record, Exhibit 17 is Scruggs document SMP D1-002173. It's an e-mail dated June 26th, 2007, from Zach Scruggs to Michael Kunzelman. Pair is this an e-mail that you swapped with Mr. Kunzelman?

A. I invoke my Fifth Amendment rights in response to that question.
Q. Did you have a regular set time to report to Mr. Kunzelman about on going developments in the cases you were working on?
MR. MALLETTE:
I object on work product grounds.
MS. NICHOLSON:
Join.
MR. MALLETTE:
And object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you ever clear with the McIntoshes disclosure of information about them to Mr. Kunzelman?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to this question.

MR. ROBIE:
Q. Let me show you a document we'll mark as Exhibit 18.
(Exhibit 18 was marked.)
MR. ROBIE:
For the record, it bears document number SMP H 1-000285. Did Mr. Kunzelman regularly allow you to edit his work before it was published?
MR. MALLETTE:
Object to the form. Object on work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you send him a copy of the false claims act first amended complaints with this e-mail?
A. I invoke my Fifth Amendment rights in response to that question.
Q. There was a written fee agreement with the Bartimus, Frickleton, Robertson Gorny firm relating to handling the qui tam

case. Do you recall that?
A. I invoke my Fifth Amendment rights in response to that question.
MS. NICHOLSON:
And I also object to that question as exceeding the scope of this deposition.
MR. ROBIE:
Q. Did the Rigsbys approve of the fee splitting agreement between the Scruggs firm, Bartimus Frickleton and the Graves firm?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
Q. Are the Rigsbys signatory to any fee agreement that purports to payor provide an interest in fees to be paid to your firm for the handling of that case?
MR. MALLETTE:
Could you restate the question, please?

Q. Are the Rigsbys signatory to any agreement that purports to provide payment or an interest in fees to be paid to your firm for the handling of that case?
MR. MALLETTE:
I object to the form and I object on work product grounds.
MS. NICHOLSON:
Join.
A. Any voc my Fifth Amendment rights in response to that question.
Q. Is there a written fee agreement with the Rigsbys that sets out the payment to be made to the Scruggs office in the event you succeed in that case?
MR. MALLETTE:
Object to the form of the question.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Let me show you Exhibit 19.
(Exhibit 19 was marked.)
MR. ROBIE:
It's Scruggs document SMP H 1-000013.

MR. ROBIE:
Q. Have you seen this document before?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Isn't it a fact that the Rigsbys authorized your office to forward the First Amended Complaint in their false claims act against State Farm to CBC news before that was done on June 6th, 2007?
MR. MALLETTE:
I object on work product grounds and on attorney/client privilege grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Isn't it a fact that the Rigsbys knew about this disclosure and authorized it?
MR. MALLETTE:
Object on attorney/client privilege grounds and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.

A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Isn't it a fact that you refused to disclose the amended complaint in the false claim act suit to State Farm on the basis that it was sealed, yet, you provided it to CBS News?
MR. MALLETTE:
I object to the form and I object on work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Do you have any substance abuse problems that you are aware of?
A. I invoke my Fifth Amendment in response to that question.
Q. Do you have any drug or chemical use that prevents you from testifying accurately and truthfully here today?
A. I invoke the Fifth Amendment in response to that question.

Q. Are you aware of any chemical or drug dependency by your father?
MR. MALLETTE:
Object to the form and I object as harassment.
MR. DOOLEY:
This is brook. I'm going to object on privacy grounds.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. I want to direct your attention, please, to Page 2 of Exhibit 19. I'll put it back in front of you. Is the handwritten portion of the legend that's put in the middle of the paragraph under S L F circumstances in the handwriting of Sid Backstrom?
A. I invoke my Fifth Amendment rights in response to that question.
Q. The document is originally written, I believe, read as follows: The parties understand that S L F, which is Scruggs law firm, had pledged some portion of its fees, if any are recovered in this case, to

Scruggs Katrina group. Pair in fact, does Scruggs Katrina group have a financial interest in the qui tam or false claims act which is currently pending on behalf of the Rigsbys?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Has any person, to your knowledge, promised the Rigsbys a financial return for prosecuting this false claims act?
A. I invoke my Fifth Amendment rights in response to that question.
MS. NICHOLSON:
I also object to that question as exceeding the scope of this deposition.
MR. MALLETTE:
I join in that objection.
Q. If I read the change or the correction to this paragraph, it says, the parties understand that S L F, Scruggs law firm, had discussed their sharing of fees from this case with other members of SKG to account for their work in this case. Oops, sorry. It should read, the parties understand that S L F had discussed their

sharing of fees, if any, from this case with other members of SKG to account for their work in the case.
Were you involved in this modification to this fee agreement?
MR. MALLETTE:
Object on Work Product Doctrine grounds.
MS. NICHOLSON:
Object as exceeding the scope of this deposition.
MR. MALLETTE:
Join in that, as well.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Was this agreement acceptable to the Scruggs law firm?
MR. MALLETTE:
Object on the Work Product Doctrine grounds.
MS. NICHOLSON:
Join also as exceeding the scope of this deposition.
MR. MALLETTE:

Join in that objection, as well.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Is there anything inaccurate about it that you are aware of?
MR. MALLETTE:
I object on Work Product Doctrine grounds.
MS. NICHOLSON:
Join. And also exceeding the scope of the deposition.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Are there any non privileged documents that you withheld from production in response to State Farm's request number 56?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Are there any privileged documents or documents for which you claim privilege that you withheld from production of request number 56 by State Farm's Request for

Production of documents?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Request Number 9, which sought all documents concerning communications between the Scruggses and Brian Ford, did you produce all documents concerning those communications?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Did you withhold any documents responsive to that category which you contend are privileged?
A. I invoke my Fifth Amendment rights.
Q. Request Number 10 of the Request for Production of documents sought all documents concerning communications between the Scruggses and -- actually, that was remodified, I believe, what I'm looking at on this document is between the -- any State Farm-between the Scruggses and any State Farm employee who worked on any hurricane-related -- Hurricane Katrina claim which was narrowed to require only the production of documents concerning

communications in any way related to the Rigsbys or the McIntosh claim. Have you produced all of those documents?
MR. MALLETTE:
I object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Are there documents concerning communications between the Scruggses and the McIntoshes which have not been produced?
MR. MALLETTE:
I object as to attorney/client privilege.
A. I invoke my Fifth Amendment rights in response to that question.
MR. MALLETTE:
And I withdraw my objection to your question. Your question is just asking are there documents not produced?
MR. ROBIE:
Yes.
Q. Are there documents which have not been produced as to which a claim of privilege is made?

A. I invoke my Fifth Amendment rights in response to that question.
Q. Have the McIntoshes been requested to review any documents reflecting communications with them, with a request that they produce a privilege log if they choose to assert a privilege?
MR. MALLETTE:
Object to the form, attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights.
MR. ROBIE:
Q. Have the Rigsbys been presented with any documents reflecting communications with them which have not been produced as part of the Scruggses' production?
MR. MALLETTE:
Object on attorney/client privilege, Work Product Doctrine.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights.
MR. ROBIE:

Q. The qui tam action is a Rigsbys claim, isn't it?
MR. MALLETTE:
I object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights.
MR. ROBIE:
Q. Have you produced all of the documents concerning all communications in any way related to the qui tam Rigsby claim?
MR. MALLETTE:
I object as to Work Product Doctrine, attorney/client privilege. And, Jim, is there a specific question you were referring to among the subpoenas for that question?
MR. ROBIE:
Request Number 10. I'm reading it directly.
MR. MALLETTE:
Can you read it again, please?
MR. ROBIE:
Request Number 10 is for all documents concerning communications between

the Scruggses and any State Farm employee, but then it was narrowed down, according to Judge Senter, it was narrowed down to require only the production of documents concerning communications in any way related to the Rigsbys or the McIntosh claim.
My question is, have you produced all documents relating to the Rigsbys' qui tam claim?
MR. MALLETTE:
I object to the form.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Are there documents reflecting communications with prosecutors or prosecuting officers that have not been produced by the Scruggses pursuant to this order?
MR. MALLETTE:
I object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.

MR. ROBIE:
Q. Has any set of documents been presented to the Rigsbys with a request that they provide either the assertion of a privilege or the waiver of a privilege relating to a communication with the Scruggses on one of their claims?
MR. MALLETTE:
I object to the form and I object to the extent it seeks to invade the attorney client privilege.
MS. NICHOLSON:
Object to the form.
A. Any voc my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Have the Rigsbys demanded that your firm or the SKG cover their tax liability resulting from reimbursement of nearly a million dollars in legal fees on their behalf?
MR. MALLETTE:
I object to the form. I object to attorney/client privilege and Work Product Doctrine and I object as to beyond the scope

of this deposition.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Have the Rigsbys made such a claim against you, your father or your firm?
MR. MALLETTE:
I object to the form, attorney/client privilege invasion, Work Product Doctrine and beyond the scope of this deposition.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights.
MR. ROBIE:
Q. The request Number 11 seeks all documents concerning communications between the Scruggses and any person affiliated with or employed by any media outlet pertaining to or arising out of Hurricane Katrina.
That document request was narrowed to require only the production of documents concerning such communications that are in

any way related to the Rigsbys or to the McIntosh claim. Have you provided all such documents?

A. I invoke my Fifth Amendment rights in response to that question.

Q. Can you tell me what efforts were made to find those documents?

A. I invoke my Fifth Amendment rights in response to that question.

Q. Can you explain to me why all e-mails that were transmitted in response to this production request were transmitted in PDF format?

A. I invoke my Fifth Amendment rights in response to that question.

Q. Does the Scruggs office maintain a hard drive back up of e-mails?

A. I invoke my Fifth Amendment rights in response to that question.

MR. MALLETTE:

And I object on work product and attorney/client privilege grounds.

MR. ROBIE:

Q. Does your firm e-mail system archive e-mails for any particular period of time?

A. I invoke my Fifth Amendment rights in response to that question.

Q. Do you know whether or not communications between your firm and people affiliated with or employed by media outlets which in any way related to the Rigsbys or the McIntosh claim have been withheld from production?

A. I invoke my Fifth Amendment rights in response to that question.

Q. Can you identify any documents that fit that description of documents requested as to which a claim of privilege is being asserted?

MR. MALLETTE:

Can you re-ask that question, please?

MR. ROBIE:

Q. Can you identify any documents that fit the description -- I'll give you the description again so it's clear. Request Number 11 seeks all documents concerning communications between the Scruggses and any person affiliated with or employed by any media outlet which was narrowed to require

only the production of documents concerning such communications that are in any way related to the Rigsbys or to the McIntosh claim.

With that in mind, can you tell me, are there any documents that have been withheld from production based on a theory that there's somehow a privilege that applies to them?

MR. MALLETTE:

Object on Work Product Doctrine grounds.

A. I invoke my Fifth Amendment rights in response to that question.

MR. ROBIE:

Q. Have you, in fact, seen any documents that were specifically withheld from production in response to these requests?

A. I invoke my Fifth Amendment rights in response to that question.

Q. Request number 17 asks for all documents represented to the Scruggses to have been taken from, removed from, copied from, forwarded from or downloaded from

directly or indirectly, any State Farm office or State Farm computer system, including without limitation e-mails pertaining to or arising out of Hurricane Katrina, and that request was narrowed to require only production of such documents that have not previously been produced by State Farm, itself.

Have you complied with that request?

A. I invoke my Fifth Amendment rights in response to that question.

Q. Are you aware of any documents that purport to find as their source State Farm's operations or State Farm employees which have not been turned over to State Farm as part of this request?

MR. MALLETTE:

I'm sorry, Jim. Can you ask that again?

MR. ROBIE:

Yes, I will.

Q. Do you have any documents which purport to be State Farm documents which you have not given to us that you did not receive directly from State Farm pursuant to

a production?
MR. MALLETTE:
I object to the form.
MS. NICHOLSON:
Join. Also work product.
A. Invoke my Fifth Amendment rights in response to that question.
Q. Is it your contention that you have a work product privilege that entitled you to violate a direct order of a federal court?
MR. MALLETTE:
Object to the form of the question.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Do you have any documents which purport to be State Farm documents which you have not given us?
MR. MALLETTE:
Object to the form 6789.
A. I invoke my Fifth Amendment rights in response to that question.

MR. ROBIE:
Q. Have you withheld any documents pursuant to this request on the basis that you believe one or more of those documents is subject to a claim of privilege?
A. I invoke my Fifth Amendment rights in response to that question.
MR. MALLETTE:
And I object on Work Product Doctrine grounds.
MR. ROBIE:
Q. Request number 23 seeks the production of documents picked up or otherwise retrieved by Richard Scruggs from a highly placed source at State Farm on a trip to Bloomington, Illinois, which Richard Scruggs referenced in a March 30, 2006 interview. No such documents have been produced, have they?
A. I invoke my Fifth Amendment rights in response to that question.
Q. No such documents exist, do they?
A. I invoke my Fifth Amendment rights in response to that question.
Q. There have never been any such

documents, have there?
A. I invoke my Fifth Amendment rights in response to that question.
Q. The court notices that the Scruggs object to the production of these documents on the grounds of relevance and Fifth Amendment privileges, and specifically over rules them. Can you tell me why there would be a Fifth Amendment objection to production of these documents?
MR. MALLETTE:
He's not going to respond beyond the Fifth Amendment objection. He's objecting to the questions posed to him today at the deposition.
MR. ROBIE:
Q. Request number 25 seeks all documents concerning any financial interest the Scruggs have in this or any other State Farm-related Hurricane Katrina matter following their withdrawal as counsel of record was granted.
Do you have -- do the Scruggses have any financial interest in any pending litigation against State Farm?

A. I invoke my Fifth Amendment rights in response to that question.
Q. Is it your expectation that at some point, your firm will be entitled to share in a fee which are earned from the qui tam false claim act case against State Farm?
MR. MALLETTE:
I object on work product and attorney/client privilege grounds.
A. I invoke my Fifth Amendment right in response to that question.
MR. ROBIE:
Q. There is a challenge to a subpoena directed to AOL for Rigsby documents which is currently pending on appeal S Scruggs firm funding that legal effort?
MR. MALLETTE:
I object to the form and I object on attorney/client privilege and Work Product Doctrine grounds and I object as beyond the scope of this deposition.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.

(Off the record.)
MR. ROBIE:
Q. Mr. Scruggs, I've placed in front of you a document which I've marked as Exhibit 20. It's Scruggs document SMP H 1-002661. It's an e-mail from you to Joseph R E dated April 11, 2007, 5:51 p.m.. do you see that?
A. I invoke my Fifth Amendment rights in response to that question.
Q. The text of the e-mail says, I just sent you some e-mails that we just uncovered today that relate to the McIntosh case, and others would show that the McIntosh case was not an isolated event.
What e-mails are you referring to?
A. I invoke my Fifth Amendment rights in response to that question.
Q. And how did you get your hands on those State Farm e-mails which you just quote, unquote, uncovered that day?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.

A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. The e-mails that are referenced here, are they e-mails that were sent to you by the Rigsbys?
MR. MALLETTE:
I object on attorney/client privilege grounds and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you ever receive any State Farm e-mails from any source other than the Rigsbys or and then I did he wit?
MR. MALLETTE:
I object on attorney/client Work Product Doctrine.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights.
Q. The e-mail reads the AP called us

about one of the e-mails last night, and I'm not sure how they got, but we have had them for sometime and just uncovered the Jewels I sent you. Did I read that right?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Can you identify for me, please, the Jewels you are referring to in this e-mail?
A. I invoke my Fifth Amendment rights in response to that question.
MS. NICHOLSON:
We object on the work product grounds.
MR. ROBIE:
Q. All of the e-mails that we've marked as exhibits today are documents which are maintained as part of the regularly maintained business records of the Scruggs law firm, aren't they?
MR. MALLETTE:
I object on work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.

MR. ROBIE:
Q. You didn't create any of these e-mails specifically for this production set, did you?
A. I invoke my Fifth Amendment right in response to that question.
Q. In fact, the records that you produced in response to this document production are records that you maintain in the ordinary course of your business and handling cases and are considered business records of the Scruggs firm, aren't they?
MR. MALLETTE:
I object to the form of the question, seeking leak Al conclusion from the witness, attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
Q. Exhibit 20 is actually in response to Joe R E's e-mail to you that reads, quote, would it be possible to get copies of the State Farm internal e-mails that AP

reported on today? Did I read that right?
A. I invoke my Fifth Amendment right in response to that question.
Q. Do you know, as you sit here, what internal e-mails AP reported on on April 11th, 2007?
A. I invoke my Fifth Amendment right in response to that question.
MS. NICHOLSON:
We also object on work product grounds.
MR. ROBIE:
Q. Did Kerri or Cori Rigsby ever give you their State Farm laptop so you could directly access e-mails from the company?
MR. MALLETTE:
Object to the form, object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you ever operate either carry or

Cori's State Farm laptop?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights.
Q. Have you ever done a file search of any type in a State Farm protected computer database?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. ROBIE:
Q. Did you ever compose or send an e-mail using either Kerri or Cori Rigsby's alias?
MR. MALLETTE:
Object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:

Join.
A. I invoke my fifth morning endment rights in response to that question.
MR. ROBIE:
Q. Do you still have here at the Scruggs law office the same servers and computer databases that existed in June of 2007?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Other than follow-up questions after we take our matter to the judge on motions to compel, I will reserve the balance of my time for that follow-up deposition and I'm concluded at this point, based on where we are.
EXAMINATION
MR. TWIFORD:
Q. I think I'll be able to do it from here and speak loud enough that every one can hear me?
MR. MALLETTE:
If it's not too much of an inconvenience, would you mind coming down here so I can see you and hear you better?

MR. TWIFORD:
Sure. I will be happy to. :off record:
MR. TWIFORD:
Q. Mr. Scruggs, how are you this afternoon? I'll withdraw the question.
MR. MALLETTE:
He can't respond to pleasantries any more than others.
Q. For the record, I'm Hunter Twiford. I represent E.A. Renfroe & Company in this litigation. With me is Joe Walker, who is from Howard law firm, and he also represents E.A. Renfroe & Company.
And let me start with the -- your first contact, if I can, with Cori and Kerri Rigsby. What is the date of your first contact or any member of Scruggs law firm with Cori or Kerri Rigsby?
A. I invoke my Fifth Amendment rights with respect to that question.
Q. What is the date of your first contact or any member of the Scruggs law firm with Pat Lobrano?
A. I invoke my Fifth Amendment rights

in response to that question.
MR. MALLETTE:
And I would object on attorney/client privilege because it may have been after that relationship had already begun. You can break your question down.
MS. NICHOLSON:
I'm going to object on Work Product Doctrine, as well.
MR. TWIFORD:
Q. Other than in the context of the Scruggs law firm representation of pat Lobrano in any Katrina-related claims, what was the first contact regarding Cori and Kerri Rigsby with Ms. Lobrano?
A. I invoke my Fifth Amendment rights with respect to that question.
MS. NICHOLSON:
And we object, too, on work product grounds.
MR. TWIFORD:
Q. What was your first contact or the Scruggs law firm contact with Dr. Lobrano in a non-State Farm -- regarding his claim with

State Farm, what was the first contact?
MR. MALLETTE:
I'm not sure I understand your question. Are you saying before -- how did they know them before they met him related to State Farm? I'm not understanding your question.
MR. TWIFORD:
I'm starting there.
Q. Did you know Dr. Lobrano before he became a client of the Scruggs Katrina group?
A. I assert my Fifth Amendment rights with respect to that question.
Q. Was Dr. Lobrano involved in any discussions with Cori or Kerri Rigsby and the Scruggs law firm, you or the Scruggs Katrina group regarding the Rigsby relationship with the Scruggs law firm, with the SKG?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
We join.

A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. I'm going to, if I can, back up for half a second and I'm going to ask you -- so far you've asserted the Fifth Amendment privilege to every question that's come up other than your name, and that sounds to me like a blanket assertion or blanket refusal to respond to inquiries. And I'd like to ask you and your counsel whether you consider that a blanket referral -- I'm sorry, refusal, first.
MR. MALLETTE:
No.
MR. MARTIN:
No, we don't, because he is doing it on a question by question basis.
MR. TWIFORD:
Okay. I would also like, in response to each question in which you invoke the Fifth Amendment, I would like you to ask or to answer what is threatening about that question, number one; and number two, I would also like you to answer what

criminal conduct this puts you at risk regarding so the judge has something that he can look at, vis-a-vi these privilege assertions.
MR. MALLETTE:
And I would object to that request and instruct him not to provide you that. He can provide that to the judge, if the judge requests or requires that information, but he's not required to answer your questions in a way that would divulge the very reason he's taking the fifth.
MR. TWIFORD:
We believe that the witness has got to object with specificity to the information that's sought so that the privilege determination can be made.
MR. MALLETTE:
But no one is here -- and I assume the case you are reading from is a trial case where there's a judge there to make the determination. In this case, there isn't a judge sitting by to make the determination on a question by question basis. He can respond to that request if it comes to the

court and provide that justification as appropriate.
MR. TWIFORD:
So you all decline to do as we've requested?
MR. MALLETTE:
Well, we haven't been asked to go back and begin at the start of the day, as requested, but in response to your request from Mr. Martin --
MR. MARTIN:
That's correct.
MR. TWIFORD:
Q. Was the first contact that the Scruggs law firm had with Cori and Kerri Rigsby prior to January 1st of 2006?
A. I invoke my Fifth Amendment rights in response to that question.
Q. How did the contact with Cori Rigsby come about initially?
MS. NICHOLSON:
Objection, work product.
MR. TWIFORD:
Q. Would you describe the circumstances, please?

A. I invoke my Fifth Amendment rights in response to that question.
Q. Could. Would you describe the circumstances under which the first contact with Kerri Rigsby came about?
A. I invoke --
MS. NICHOLSON:
Objection.
A. I invoke my Fifth Amendment rights in response to that question.
MS. NICHOLSON:
We object on work product grounds.
MR. TWIFORD:
Q. Now, let's explore that for just a minute on the work product attorney privilege, et cetera. Kerri Rigsby was actually a witness in the McIntosh case, was she not?
A. I invoke my Fifth Amendment rights in response to that question.
Q. And the Scruggs law firm has stated in the past that she has been a client of the Scruggs law firm for some -- on some basis; is that correct?
A. I invoke my Fifth Amendment rights

in response to that question.
Q. Ant Scruggs law firm has also maintained that Cori Rigsby has been a client of the Scruggs law firm and the SKG on some matters; is that correct?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Ant Scruggs law firm and the SKG also hired Cori and Kerri Rigsby as litigation consultants, did they not?
MS. NICHOLSON:
Objection, work product.
MR. TWIFORD:
I'm going to disagree with you, if I can, and that this -- we are authorized by Judge Senter, who expresses some confusion as to the relationship of the Rigsbys, and to the extent that they are not acting as his clients but as his employee, we'd like to be allowed to go forward.
MS. NICHOLSON:
Well, you can disagree and ask your question and I'll just make my objection.
MR. MALLETTE:
And to the extent your question is

asking about their employment and working on matters that are covered by Work Product Doctrine or attorney/client privilege, as an employee, the same objection would apply in those cases.
MR. TWIFORD:
I think my question was, are they employees of the Scruggs law firm or the SKG. Are they?
A. I invoke my Fifth Amendment rights in response to that question.
MS. NICHOLSON:
We object to the form, as well.
MR. TWIFORD:
Q. I'm sorry were they -- were the Rigsby sisters at any time after Hurricane Katrina paid litigation consultants and employees of the Scruggs law firm or the SKG?
A. I invoke my Fifth Amendment rights in response to that question.
Q. Mr. Robie may have asked you this question in a slightly different way, but were the Rigsby sisters the, quote, highly placed insiders at State Farm, close quote,

that were referenced in the press releases and in meetings with insurance Commissioner George Dale?
MR. MALLETTE:
I'd object on work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my fifth amendments rights in response to that question.
Q. Were there any other highly placed insiders at State Farm other than the Rigsby sisters?
A. I invoke my Fifth Amendment rights in response to that question.
Q. What specifically did the Rigsby sisters tell the Jugs law firm or the SKG about the E.A. Renfroe Company?
MR. MALLETTE:
I object on attorney/client privilege, work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. TWIFORD:

Q. Did they, in fact, tell the Scruggs law firm and the SKG about the E.A. Renfroe & Company inner workings as your employee or employees?
MS. NICHOLSON:
Object to the form.
MR. MALLETTE:
And I object to the extent it seeks to invade the Work Product Doctrine and the attorney/client privilege 6789.
A. I invoke my Fifth Amendment rights in response to that question.
MR. TWIFORD:
Q. What did the Rigsby sisters as paid employees and litigation consultants of the Scruggs law firm and the SKG tell you about J A N A and jean Renfroe, individually?
A. I invoke my Fifth Amendment rights in response to that question.
MR. MALLETTE:
And I object again as to attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
We join.

MR. TWIFORD:
Q. What did the Rigsby sisters as paid consultants of the SKG and K L G tell you about the inner workings of the E.A. Renfroe Company?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. MALLETTE:
I want to make my objection clear that it also-although you've asked the question as employees, I can't separate out, as we sit here, what was said as an employee or what was said that was covered by the Work Product Doctrine, but it seems to me the questions you asked were very likely related to the lawsuits being defended by the Scruggs law firm. That's the reason for the objection.
MR. TWIFORD:
Q. What specifically did the Rigsby

sisters or either of them tell the Scruggs law firm or the SKG about the E.A. Renfroe involvement in the McIntosh reports, either the October 12th or the October 20th, 2005 reports, engineering reports?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. TWIFORD:
Q. Didn't the Rigsby sisters give the SKG internal working documents from Renfroe as part of their employment as litigation consultants? Did they not?
A. I invoke my --
MR. MALLETTE:
I object to the form. I object to attorney/client privilege and Work Product Doctrine invasion.
MR. TWIFORD:
I think the issue of whether they gave them documents may not be subject to

the privilege. If I ask what the documents were, I can see that.
MR. MALLETTE:
Did you ask that after they had become clients and after they were employed? You didn't give a time frame for the question.
MR. TWIFORD:
At such time as they were employees. I think I did specify, at such time as they were employees.
MR. MALLETTE:
Same objection as to Work Product Doctrine.
MR. TWIFORD:
Let me see if I can do a little better with that.
Q. Do you agree with me that the Rigsby sisters gave to the SKG and the Scruggs law firm, while acting as employees of the Scruggs law firm and the SKG, internal documents of Renfroe, including the employment agreement between the Renfroes and the Rigsbys?
A. I invoke my Fifth Amendment rights

in response to that question.
Q. Do you admit that during that same time frame and in that same capacity, the Rigsby sisters gave the SKG and the Scruggs law firm copies of the confidential Renfroe code of conduct, too? Correct?
MR. MALLETTE:
I object to the form. Can you tell me, when you say during that time period, what time period.
MR. TWIFORD:
During the time as an employee. During the time that they were acting as employees. And I'll try to specify.
MR. MALLETTE:
Ask the question again, if you don't mind.
MR. TWIFORD:
I'll try. During the time that the Rigsby sisters were acting as employees of the SKG and/or the K L G and while they were still employees of Renfroe, you'd agree with me, wouldn't you, that the Rigsby sisters gave to the SKG and K L G confidential Renfroe internal documents, including their

code of conduct?
MR. MALLETTE:
I object on Work Product Doctrine grounds and on attorney/client privilege grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. TWIFORD:
Q. Did you subsequently use the Renfroe code of conduct as an at muchment to and a claim within the McIntosh amended complaint?
A. I invoke my Fifth Amendment rights in response to that question.
Q. The initial complaint that was filed by McIntosh against State Farm did not include any claims against E.A. Renfroe & Company, did it?
A. Invoke my Fifth Amendment rights in response to that question.
Q. Renfroe was added as a defendant in the First Amended Complaint, was it not?
A. I invoke my Fifth Amendment rights in response to that question.

Q. Did the Rigsby cyst sisters acting -- during the time that they acted as employees of the SKG or the Scruggs law firm, give to the SKG or the Scruggs law firm any contracts between E.A. Renfroe & Company and State Farm?
MR. MALLETTE:
I object to the form and I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights in response to that question.
MR. TWIFORD:
Q. During the same time frame in which the Rigsby sisters are acting as employees of the SKG or the KLG, did they give to the SKG or to the Scruggs law firm the confidential payment schedules between State Farm and Renfroe?
MR. MALLETTE:
Same objection as before, attorney/client privilege and Work Product Doctrine grounds.

MS. NICHOLSON:
We join.
MR. MALLETTE:
As well as to the form of the question.
A. I invoke my Fifth Amendment rights in response to that question.
MR. TWIFORD:
I'd like to cleanup at least the form, so if we could do a specific objection on that, I'll try to clean it up.
MR. MALLETTE:
It seems that your question implies that while they were employees, it ignores any existence of an attorney/client relationship, which was also on going at the same time. So that's the nature of the objection as to the extent it implies there was only one relationship. I think it misstates the relationship.
MR. TWIFORD:
I'll live with the question the way it was then.
MR. MALLETTE:
Fair enough.

MR. TWIFORD:
Would you explain, please, for the court and the ladies and gentlemen of the jury exactly what the Scruggs law firm or the SKG was doing for the Rigsbys in terms of acting as their attorney? I'm not asking for any specific information about what you were advising them about or anything like that. What did they hire you to do?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. What was your understanding with respect to the representation of the Rigsby sisters by the SKG or the Scruggs law firm?
A. I invoke my Fifth Amendment rights with respect to that question.
Q. Was there a written agreement between the Scruggs law firm or the SKG and the Rigsby sisters relating to the attorney/client representation other than in the qui tam action?

A. I invoke my Fifth Amendment rights with respect to that question.
Q. During the time that the Rigsby sisters acted as employees of the Scruggs law firm or the SKG, you would agree with me, wouldn't you, that they gave confidential information of Rigsby -- I mean, of the Renfroes, including a lives the Renfroe Adjusters who worked for State Farm or worked State Farm claims?
MR. MALLETTE:
Object to the form and object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. And it's true, is it not, that the Rigsby sisters gave to the Scruggs law firm or the SKG confidential information regarding Renfroe's relationship with State Farm?
MR. MALLETTE:

Same objection as to form, attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Isn't it true that all of the information that you and the SKG and the Scruggs law firm obtained about Renfroe prior to amending your complaint in the McIntosh case to add Renfroe as a defendant was obtained solely through the Rigsby sisters, who were your paid litigation consultants at that time?
MR. MALLETTE:
Object as to form, attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
I join.
A. I invoke my Fifth Amendment rights to that question.
MR. TWIFORD:
Q. Isn't it true that all of the

information that you and the Scruggs law firm and the Scruggs Katrina group obtained about Renfroe prior to filing the complaint in the shows case and adding Renfroe as a defendant in that case was obtained primarily or solely through the Rigsby sisters, your paid litigation consultants?
MR. MALLETTE:
I object as to form, attorney/client privilege, Work Product Doctrine, beyond the scope of these depositions.
MS. NICHOLSON:
Join all objections.
MR. TWIFORD:
And I would say as far as beyond the scope of this, you are are accusing Renfroe as being part of a conspiracy that is well pled in the shows case and I think I'm entitled to explore that conspiracy in the shows as part of the McIntosh claim.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
I apologize for interrupting you and not allowing uh-uh that opportunity.

Q. Isn't it true that all of the information that you and the SKG and the KLG obtained about Renfroe in any of the other cases, what we've commonly called the and any group cases, which were subsequently amended to add Renfroe as a defendant, were obtained solely through the Rigsbys, who were your paid litigation consultants at that time?
MR. MALLETTE:
I object as to form. I object on attorney/client privilege and Work Product Doctrine grounds and I also object as being beyond the scope of this deposition.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights with respect to that question.
Q. Isn't it true that all of the information that you and the SKG and the Scruggs law firm obtained about E.A. Renfroe & Company or about J A N A and Jean Renfroe prior to your amending the complaint in the false claims act and qui tam action to add Renfroe, the company and J A N A and Gene

Renfroe, individually, as defendants, was obtained as a result of information provided to you by the Rigsby sisters as your paid litigation consultants?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds, as well as to the form of the question.
MS. NICHOLSON:
Join.
A. I assert my right as to self-incrimination with respect to that.
MR. TWIFORD:
Q. Isn't it also true that you and the SKG and Scruggs law firm based your claims against the Renfroes on the documents that the Rigsby sisters stole from Renfroe?
MR. MALLETTE:
Object to the form and I object on attorney/client privilege and work product grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.

MR. TWIFORD:
Q. And that was -- so -- and I apologize that I didn't quite finish my question beforehand. That was my fault. I hesitated. I'm sorry. But, any way, they were stolen from State Farm and there for from Renfroe in the context of the McIntosh case? In other words, the claims that were made in the McIntosh case are based on documents stolen by the Rigsby sisters from State Farm and Renfroe; is that correct?
MR. MALLETTE:
I object to the form of the question. I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment right with respect to that question.
MR. TWIFORD:
Q. And isn't it true, Mr. Scruggs, that the claims that are made by the plaintiffs in the shows case against E.A. Renfroe Company and against J A N A and Gene Renfroe, individually, are based in large

part on stolen documents or documents that were stolen by the Rigsby sisters while acting as your litigation consultants from State Farm and from Renfroe?
MR. MALLETTE:
Object to the form. I object on attorney/client privilege grounds and I object on Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. And isn't isn't the same thing true that your amended complaints in the and any group cases, the 75 or so cases in which Renfroe individually and J A N A and Gene Renfroe were added as defendants my amendment were based, in whole or in part, on documents stolen by the Rigsby sisters from State Farm and from Renfroe while acting as Scruggs Katrina group or Scruggs law firm paid litigation consultants?
MR. MALLETTE:
Object to the form of the question.

Object on the grounds of attorney/client privilege and Work Product Doctrine and I also object as beyond the scope of these depositions, as was the last question, which I failed to timely object on that last issue. But I interpose that objection, as well.
MR. TWIFORD:
I think we've waived that one.
MS. NICHOLSON:
We join.
MR. TWIFORD:
Q. Isn't it true, Mr. Scruggs --
A. You didn't get an answer to that question.
Q. I didn't let you answer. I'm anticipating your answer.
A. I invoke my Fifth Amendment rights with respect to that question.
Q. Isn't it true, Mr. Scruggs, that the claims that have been made by the Rigsbys, themselves, as relate ors in the qui tam action are based, at least in part, on documents that they, themselves, stole from State Farm and from Renfroe while acting as

paid litigation consultants of the Scruggs law firm or the SKG?
MR. MALLETTE:
I object as to form. I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my First Amendment rights with respect to that question.
MR. TWIFORD:
Q. And the SKG and the Scruggs law firm based claims in the McIntosh case on confidential information regarding Renfroe to which the Rigsbys were privy as Renfroe employees, which they then turned around and furnished to you or the SKG in violation of their employment agreement with Renfroe; isn't that true?
MR. MALLETTE:
I object as to form, attorney/client privilege and Work Product Doctrine, as well as it seeks a leak Al conclusion from the witness.
MS. NICHOLSON:

Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. And the claims against the -- or against Renfroe that are set out in McIntosh complaint, the conspiracy claims that Renfroe conspired with State Farm to miss adjust or under pay claims of clients of the Scruggs Katrina group, those claims are based primarily on this confidential information in the stolen documents that were furnished to you by the Rigsby sisters as paid consultants of the SKG or Scruggs law firm in the McIntosh case; isn't that correct?
MR. MALLETTE:
I object as to form. I object as to invasion of attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:

Q. Mr. Scruggs, you knew, at all relevant times, that the Rigsby sisters, from the date of Hurricane Katrina through the date of the 20/20 program aired, during that time period, that the Rigsby sisters were employees of E.A. Renfroe & Company. You knew that, didn't you?
A. I invoke my Fifth Amendment rights with respect to that question.
Q. And you knew, prior to entering into an attorney/client relationship with the Rigsby sisters, that they were employees of E.A. Renfroe & Company, did you not?
A. I invoke my Fifth Amendment rights with respect to that question.
Q. And you knew, prior to entering into an attorney/client relationship with the Rigsby sisters, that they were -- they had a written employment agreement with E.A. Renfroe & Company, did you not?
MR. MALLETTE:
Object on attorney client privilege grounds.
MR. TWIFORD:
Prior to the time that they became

attorneys.
MR. MALLETTE:
Well, by answering the question of what he knew about them that he only could have gotten from them, you discover the nature of those conversations. If he were to answer no, I learned it later, then you've got an answer that invades attorney/client privilege. So I think the question potentially invades the attorney/client privilege.
MR. TWIFORD:
You may answer.
A. I invoke my Fifth Amendment rights with respect to that question.
Q. You knew, prior to the time that the Scruggs Katrina group entered into an employment contract with the Rigsby sisters that they were employees of E.A. Renfroe & Company, did you not?
MR. MALLETTE:
Object as to attorney/client privilege and Work Product Doctrine.
A. I invoke my Fifth Amendment rights with respect to that question.

MR. TWIFORD:
Q. You also knew, prior to the time that you entered into -- by you, I mean the Scruggs Katrina group or the Scruggs law firm entered into an employment agreement with the Rigsby sisters that they had the written employment contract with E.A. Renfroe & Company, did you not?
MR. MALLETTE:
Again, objection as to attorney/client privilege and Work Product Doctrine invasion.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. As a matter of fact, you obtained copies of these written agreements from the Rigsby sisters, did you not?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
A. I invoke my Fifth Amendment rights with respect to that question.

MR. TWIFORD:
Q. You were aware that E.A. Renfroe & Company had adopted a written code of conduct which the Rigsby sisters signed as employees of E.A. Renfroe & Company prior to the time that you entered into an attorney/client relationship with the Rigsbys, did you not?
MR. MALLETTE:
I object as to attorney/client privilege.
A. I invoke my Fifth Amendment rights with respect to that question.
Q. You are also aware that the E.A. Renfroe & Company had a written code of conduct which the Rigsby sisters had signed prior to your entering into an employment agreement with the Rigsby sisters, were you not?
A. I invoke my Fifth Amendment rights with respect to that question.
MR. MALLETTE:
And I object on attorney/client Work Product Doctrine grounds.
Q. You -- and by you, again, I mean the

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Scruggs law firm, Scruggs Katrina group, had obtained a copy or copies of codes of conduct executed by Cori and Kerri Rigsby, had you not?

A. I'm sorry. Was there a time? Could you ask that question again?

MR. TWIFORD:

Sure. And I'll be a little more specific.

Q. Prior to the time that you entered into an attorney/client relationship with Cori and Kerri Rigsby -- and by you, again, I mean the Scruggs law firm or the Scruggs Katrina group -- by the time that you entered into that attorney/client relationship that you had already obtained a copy of the Renfroe code of conduct signed by Cori and Kerri Rigsby, had you not?

MR. MALLETTE:

I object on attorney/client privilege grounds.

A. Any voc my Fifth Amendment rights with respect to that question.

MR. TWIFORD:

Q. And prior to the time that you

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entered into -- by you, I mean the Scruggs law firm or the Scruggs Katrina group had entered into an employment agreement with the Rigsby sisters to be your paid litigation consultants, you had obtained a copy of the code of conduct that had been signed by the Rigsby sisters, the code of conduct between E.A. Renfroe ant Rigsbys and signed by them, had you not?

MR. MALLETTE:

I object on attorney/client privilege and Work Product Doctrine.

MS. NICHOLSON:

Join.

A. I invoke my Fifth Amendment rights with respect to that question.

MR. TWIFORD:

Q. You are aware, are you not, that the documents that the Rigsbys had obtained from Renfroe were confidential and proprietary, were you not?

MR. MALLETTE:

Object to the form of the question.

A. I invoke my Fifth Amendment rights with respect to that question.

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MR. TWIFORD:

Q. Let me be more specific as to time. Prior to the Scruggs Katrina group filing the amended complaint in McIntosh, you were aware at that time of the documents that the Rigsbys had obtained from State Farm -- I'm sorry, not from State Farm, just from Renfroe were confidential and proprietary. You were aware of that, were you not?

MR. MALLETTE:

I object on attorney/client privilege and Work Product Doctrine grounds.

MS. NICHOLSON:

Join.

A. And I invoke my Fifth Amendment rights with respect to that question.

Exhaust me one second. We don't need to go off the record -- let's go off the record.

(Off the record.)

MR. TWIFORD:

Q. And, yet, you and the Scruggs law firm and Scruggs Katrina group encouraged the Rigsbys to take these documents that they had stolen from Renfroe, their

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employer, and to give them to you prior to the filing of the McIntosh amended complaint, did you not?

MR. MALLETTE:

I object to the form and on attorney/client and work product basis.

MS. NICHOLSON:

Join.

A. I invoke my Fifth Amendment rights with respect to that question.

MR. TWIFORD:

Q. You were also aware, were you not, that the -- not the documents but the knowledge that the Renfroes -- I mean, the Rigsbys had was gained as a result of their employment by Renfroe and included confidential proprietary information that was nonetheless given to Scruggs law firm and the Scruggs Katrina group and used in the development of the amended complaint of the McIntosh case, were you not?

MR. MALLETTE:

I object to the form. I object on attorney/client privilege and Work Product Doctrine grounds.

MS. NICHOLSON:
Join.
A. And I invoke my Fifth Amendment right against self-incrimination.
MR. TWIFORD:
Q. Yet, you encouraged the Rigsbys to tell you everything about Renfroe and J A N A and Gene Renfroe and their relationship with State Farm in violation of the employment agreement, did you not?
A. I object on work product grounds, attorney/client privilege grounds.
MS. NICHOLSON:
Join.
A. And I invoke the Fifth Amendment.
Q. And you paid them for these documents by making them paid litigation consultants, did you not?
MR. MALLETTE:
I object to the form, work product and attorney/client privilege.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment.
Q. What were the Rigsbys' specific

duties as your paid litigation consultants?
A. I invoke the Fifth Amendment with respect to that question.
Q. Were they required to maintain specific office hours as your paid litigation consultants?
A. I invoke the Fifth Amendment with respect to that question.
Q. What specific tasks were the Rigsby sisters assigned to do, as far as Renfroe was concerned, prior to the 20/20 program?
MR. MALLETTE:
I object on work product and attorney/client privilege grounds.
MS. NICHOLSON:
We join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. What were the specific tasks were the Rigsby sisters assigned to do as your paid litigation consultants prior to the airing of the 20/20 program?
MR. MALLETTE:
I object on attorney/client

privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
We join.
A. I invoke the Fifth Amendment with respect to that question.
Q. Are there in existence any notes between the Rigsby sisters as litigation consultants of the SKG or the Scruggs law firm and members of the Scruggs law firm or the SKG? Are there any in existence?
MR. MALLETTE:
I'm sorry. Can you ask that again?
MR. TWIFORD:
Q. Are there any notes in existence between the Scruggs law firm or the SKG or any members and the Rigsby sisters in their capacity as paid litigation consultants of the SKG or the Scruggs law firm?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
We join.
A. And I invoke my Fifth Amendment rights with respect to that question.

MR. TWIFORD:
Q. Are there any memos or other writings between the Rigsby sisters in their capacity as paid litigation consultants and members of the SKG or the Scruggs law firm?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Assuming that there are notes and memos for the purpose of this question, what is the current location of any notes, statements, memos between the Scruggs law firm, the SKG and the Rigsby sisters?
MR. MALLETTE:
I object to the form of the question and I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. And I invoke my Fifth Amendment

rights with respect to that question.
MR. TWIFORD:
Q. How long were the Rigsby sisters paid their $150,000 per year consultant fees?
A. I invoke my Fifth Amendment rights with respect to that question.
Q. Boo whom were the Rigsby sisters paid the 150 ought $00 consulting fees?
A. I invoke my Fifth Amendment rights with respect to that question.
Q. Did the Scruggs law firm issue any checks to either Kerri or Cori Rigsby as payment of any portion of the $150,000 per annum litigation consultant fees?
A. I invoke the Fifth Amendment with respect to that question.
Q. Did any other member of the SKG issue any checks to either Cori or Kerri Rigsby as any portion of the consideration their $150,000 per year consideration as paid litigation consultants?
A. I invoke the Fifth Amendment with respect to that question.
Q. Did the nut law firm or David Nutt

reimburse the Scruggs law firm any amounts that had previously been paid to the Rigsby sisters as litigation consultants?
MR. MALLETTE:
I object as beyond the scope of discovery in this case.
MS. NICHOLSON:
Join. Also, work product.
A. I invoke my Fifth Amendment right with respect to that question.
MR. TWIFORD:
Q. Or did the nut law firm pay the Rigsbys directly?
MR. MALLETTE:
Same objection as beyond the scope of this deposition.
MS. NICHOLSON:
Join.
A. Any voc my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Are the financial records relative to payment of the Rigsby sisters currently maintained as the Scruggs law firm offices?
A. I invoke the Fifth Amendment with

respect to that question.
Q. Did anyone else in the Scruggs Katrina group besides the Scruggs law firm or members of the Scruggs law firm approve the payments of any fees or expenses to the Rigsby sisters as paid litigation consultants?
A. I invoke the Fifth Amendment with respect to that question.
Q. Were the Rigsbys employees of the SKG or were they independent contractors of the SKG to the extent that you can answer that question?
MR. TWIFORD:
And I object to the extent it seeks a legal conclusion from the witnesses.
A. I invoke the Fifth Amendment with respect to that question.
Q. Were the paychecks to them gross or net?
A. I invoke the Fifth Amendment with respect to that question.
Q. Did the Scruggs law firm or the SKG withhold taxes or social security from any of the payment checks to the Rigsby sisters?

A. I invoke the Fifth Amendment with respect to that question.
Q. Did anyone involved in the Scruggs law firm or the Scruggs Katrina group make or guarantee any loans to either of the Rigsby sisters?
MR. MALLETTE:
I object on attorney client privilege and Work Product Doctrine grounds.
A. Any voc the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Let me modify it slightly and say, did anyone with the Scruggs law firm or the Scruggs Katrina group make or guarantee any loans made to either of the Rigsby sisters in their capacity as paid litigation consultants of the SKG?
MR. MALLETTE:
I object to the form of the question and I raise the attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.
A. And I invoke the Fifth Amendment

with respect to that question.
MR. TWIFORD:
Q. I believe that we heard previously that the Scruggs Katrina group furnished laptop computers to the Rigsby sisters, and it's true, isn't it?
A. I invoke the Fifth Amendment with respect to that question.
Q. Where are those computers now?
A. I invoke the Fifth Amendment with respect to that question.
Q. Are those computers secure at this stage?
A. I invoke the Fifth Amendment with respect to that question.
Q. Mr. Robie asked you several questions about using the Scruggs law firm or Scruggs Katrina group computers -- I'm sorry, to use the State Farm computers to download information. You are aware, are you not, that the Rigsby sisters also used computers furnished by the Scruggs law firm or the Scruggs Katrina group to download confidential information, are you not?
A. I invoke the Fifth Amendment with

respect to that question.
MR. MALLETTE:
And I object to the form of the question.
MS. NICHOLSON:
Join.
MR. TWIFORD:
Q. You are aware, are you not, Mr. Scruggs, that the Rigsby sisters used laptop computers furnished by the Scruggs Katrina group or the Scruggs law firm to transfer Renfroe and State Farm files from their State Farm laptops to the laptops furnished by the Scruggs Katrina group, are you not?
MS. NICHOLSON:
Object to the form.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. I believe you also -- or Mr. Robe I asked questions and the Rigsby sisters had testified previously that the Scruggs Katrina group furnished cell phones to each of them. That is true, is it not?
A. I invoke my Fifth Amendment right

with respect to that question.
Q. Were there any restrictions placed by the Scruggs Katrina group on the use of those cell phones?
A. I invoke the Fifth Amendment with respect to that question.
MR. MALLETTE:
And I raise the Work Product Doctrine defense.
MR. TWIFORD:
Q. Who currently has possession of the billing records for those cell phones?
A. I invoke the Fifth Amendment with respect to that question.
Q. It's a fair statement, is it not, Mr. Scruggs, that the Scruggs Katrina group would have possession -- or the Scruggs law firm would have possession of those billing records among its other records, is it not?
MR. MALLETTE:
I object to the form.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Where are those billing records

currently located?
A. I invoke the Fifth Amendment with respect to that question.
Q. Who was the carrier for those cell phones that were furnished by the Scruggs Katrina group to the Rigsby question?
A. I invoke the Fifth Amendment with respect to that question.
MS. NICHOLSON:
And I object to the form.
MR. TWIFORD:
Q. Would you tell me the cell for number for Cori Rigsby's cell phone that was furnished to her by the Scruggs Katrina group?
MS. NICHOLSON:
Object to the form.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Would you tell me the cell phone number of the cell phone that was furnished by the Scruggs Katrina group to Kerri Rigsby?
MS. NICHOLSON:

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Object to the form.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Is it your understanding -- or it is your understanding, is it not, Mr. Scruggs, that the Katrina litigation group, the successor to the Scruggs Katrina group, has discontinued payments to the Rigsby sisters? That's true, is it not?
A. I invoke the Fifth Amendment with respect to that question.
MR. MALLETTE:
And I object. It's beyond the scope of this deposition.
MR. TWIFORD:
Q. Are you or any member or former member of the Scruggs law firm currently paying any portion of the former fees as litigation consultants to either Cori or Kerri Rigsby, currently?
A. I invoke the Fifth Amendment with respect to that question.
MR. MALLETTE:
And, again, I object as beyond the

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scope of this deposition.
MS. NICHOLSON:
Join.
MR. TWIFORD:

Q. Are you or any member or former member of the Scruggs law firm currently making any payments whatsoever to the Rigsby sisters for their work that was done as litigation consultants?
MR. MALLETTE:
I object as beyond the scope of this deposition.
A. And I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Is my understanding correct that the Scruggs law firm is currently shutdown, it's not doing business?
A. I invoke the Fifth Amendment with respect to that question.
Q. How long do you intend to continue to pay the Rigsby sisters these litigation consultant fees and expenses in the future?
MR. MALLETTE:

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Object to the form of the question.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Was there any attorney/client relationship between the Scruggs law firm and the SKG and the Rigsby sisters as relates to the McIntosh case?
A. I invoke the Fifth Amendment with respect to that question.
Q. Is there any attorney/client relationship between the Scruggs law firm, the SKG or the Rigsby sisters as relates to the shows lawsuit?
A. I invoke the Fifth Amendment with respect to that question.
Q. Is there any attorney/client relationship between the Scruggs law firm and the Rigsby sisters as relates to any of the 178 and any group cases?
A. I invoke the Fifth Amendment with respect to that question.
Q. Is there any attorney/client

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relationship between the Scruggs law firm or the SKG and the Rigsby sisters as relates to the Willis versus State Farm lawsuit?
A. I invoke the Fifth Amendment with respect to that question.
Q. Is there any attorney/client relationship between the Scruggs law firm or the SKG and the Rigsby sisters as relates to the Renfroe V Rigsby litigation in Alabama?
A. I invoke the Fifth Amendment with respect to that question.
MR. MALLETTE:
And I object as beyond the scope of the deposition.
MR. TWIFORD:
Q. Is there currently any attorney/client relationship between the Scruggs law firm or the SKG or any member of the SKG and the Rigsby sisters as relates to the false claims act qui tam case?
MR. MALLETTE:
Hunter, can you ask that again, please?
MR. TWIFORD:
Q. Is there currently any

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attorney/client relationship between any members of the Scruggs law firm, the SKG or any member of the SKG and the Rigsby sisters as relates to the false claims act qui tam litigation?
MR. MALLETTE:
I object to the form and I object to the extent it calls for a legal conclusion or status of those entities.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Are there any written agreements setting out the terms and conditions of the extent of the attorney/client agreements in the qui tam litigation?
A. I invoke the Fifth Amendment with respect to that litigation.
Q. Is there a contingent fee agreement with respect to the qui tam litigation?
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
You want to change tapes?
(Off the record.)

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MR. TWIFORD:
Q. Mr. Scruggs, just to clarify one matter. Without the information that the Scruggs Katrina group and Katrina-I'm sorry, the Scruggs law firm received from the Rigsbys that was stolen from the Renfroes, you could not have maintained the McIntosh case against the Renfroe company, could you?
MR. MALLETTE:
I object to the form. I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. And without the information that was stolen by the Rigsby sisters from Renfroe and given to the Scruggs law firm and the Katrina litigation group in their capacity as a -- as litigation consultants -- and I am putting quotes around that -- you could not have maintained the claims against E.A. Renfroe & Company or J A N A and Gene

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Renfroe in the shows case, could you?
MR. MALLETTE:
I object to the form. I object on attorney/client privilege and Work Product Doctrine grounds and I object as beyond the scope of this deposition.
MS. NICHOLSON:
We join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Without the confidential Renfroe information stolen by the Rigsby sisters in their capacity as litigation consultants and given to the Scruggs law firm and Scruggs Katrina group, you could not have maintained any claims against E.A. Renfroe & Company or J A N A and Gene Renfroe, individually, in any of the and any group cases, could you?
MR. MALLETTE:
Same objection as I raised in the last question.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights

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with respect to that question.
Q. What is the date, Mr. Scruggs, of the agreement by which Cori and Kerri Rigsby would have become litigation consultants of the Scruggs law firm SKG?
A. I invoke the Fifth Amendment with respect to that question.
Q. And what are the terms and conditions of that litigation agreement?
A. I invoke the Fifth Amendment with respect to that question.
Q. Are there any writings which evidence the agreement of the Rigsby sisters to act as litigation consultants for the Scruggs law firm or the SKG?
A. I invoke the Fifth Amendment with respect to that question.
Q. What is the duration of the agreement of the Rigsby sisters to act as litigation consultants for the SKG or the Scruggs law firm?
A. I invoke the Fifth Amendment with respect to that question.
Q. In fact, Mr. Scruggs, those agreements were for an indefinite period of

time, were they not?
A. I invoke the Fifth Amendment with respect to that question.
Q. And as an attorney, Mr. Scruggs, did you consider the necessity of the agreement between the Rigsby sisters and the Scruggs law firm or the SKG as litigation consultants to have been in writing?
A. I invoke the Fifth Amendment with respect to that question.
MR. MALLETTE:
And I object to the form of the question.
MS. NICHOLSON:
Join.
MR. TWIFORD:
Q. Did you advise Cori and Kerri Rigsby, in their capacity as litigation consultants, of the Mississippi statute of frauds and the necessity that any contract for an indefinite duration be in writing?
MR. MALLETTE:
I object to the form of the question on attorney/client privilege and work doctrine grounds.

MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Did you ever advise Cori and Kerri Rigsby that they ought to consult with independent counsel and obtain the advice of independent counsel as to the terms and conditions of the agreement as litigation consultants or the enforceability of that contract?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Object to the form.
A. And I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. You agreed, did you not, on behalf of the Katrina litigation group, to pay any and all of Cori and Kerri Rigsby's legal bills, did you not?
MR. MALLETTE:

I object to the form and I object as beyond the scope of this deposition.
MS. NICHOLSON:
Join.
MR. TWIFORD:
Q. Would you list each law firm that was hired to represent Cori and/or Kerri Rigsby in any litigation arising out of their employment by E.A. Renfroe & Company and their assignment by Renfroe to adjust Hurricane Katrina related claims for State Farm?
MR. MALLETTE:
Hunter, may I ask that you read that question again or ask it again.
MR. TWIFORD:
Sure.
Q. Would you list each and every law firm that was hired to represent either Cori or Kerri Rigsby in any litigation arising out of their employment by E.A. Renfroe & Company and their assignment by Renfroe to adjust Hurricane Katrina-related claims for State Farm?
MR. MALLETTE:

I object to the form.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Who selected the battle flea nor firm in Birmingham to represent the Rigsby sisters?
A. I invoke the Fifth Amendment with respect to that question.
Q. Would you describe all prior contacts or associations between the Scruggs law firm or members of the Scruggs law firm in the battle flea nor law firm in Birmingham? And by prior, I mean prior to the -- let's say Hurricane Katrina, the date of Hurricane Katrina?
MR. MALLETTE:
I object on Work Product Doctrine grounds, attorney client privilege grounds potentially, given the scope of the question, I object to the form of the question.
MS. NICHOLSON:

I object to the form and also that it exceeds the scope of this deposition.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Describe all prior contacts or associations or relationships between the Scruggs law firm, the Scruggs Katrina group and battle flea nor law firm post Hurricane Katrina, between Hurricane Katrina and today.
MR. MALLETTE:
Same objection as I raised the last question.
MS. NICHOLSON:
Join and also it exceeds the scope of this deposition.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Will you list for me each and every case by name, jurisdiction in which battle flea nor or Bob Battle or Harlan Winn were employed by you or SKG to represent the Rigsby sisters?

MR. MALLETTE:
I object to the form of the question.
MS. NICHOLSON:
Object to the form.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Did you or the Scruggs law firm or the SKG sign an agreement to pay any or all of Cori and Kerri Rigsbys' legal bills from bat Mr. Flea nor for legal services rendered?
A. I invoke the fifth amendment with respect to that question.
MR. TWIFORD:
Q. Have you or the Scruggs law firm or the SKG paid any or all of those bills to date?
A. I invoke the Fifth Amendment with respect to that question.
Q. What's the total amount that's been paid to the Battle Fleenor law firm on behalf of the Rigsbys?
A. I invoke the Fifth Amendment with

respect to that question.
Q. What's the current arrangement between the Scruggs law firm or the SKG and Battle Fleenor regarding continued representation of the Rigsbys?
MR. MALLETTE:
I object to the form of the question and I on as beyond the scope of this deposition any any join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Did you inform the attorneys at Battle Fleenor that the Rigsbys were SKG clients in a separate relationship?
MR. MALLETTE:
Object to the form of the question.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Did you inform the attorneys at Battle Fleenor that the Rigsbys were employees, paid litigation consultants of the Scruggs Katrina group?
A. I invoke the Fifth Amendment with

respect to that question.
Q. What instructions did you give to Battle Fleenor regarding disclosure of those relationships? First, the attorney/client relationship?
MR. MALLETTE:
Object to the form of the question.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Is there any joint representation agreement or joint defense agreement related -- between Scruggs law firm, SKG and Battle Fleenor regarding their representation of the Rigsbys?
A. I invoke the Fifth Amendment with respect to that question.
Q. Do you personally have any agreement with Cori or Kerri Rigsby regarding their current counsel, Battle Fleenor, and current future payments made to them?
A. I invoke the Fifth Amendment with respect to that question.

MR. MALLETTE:
And I again object, beyond the scope of this deposition.
MR. TWIFORD:
Q. Lieu selected the Zuckerman Spaeder law firm in Washington to represent the Rigsby sisters?
A. I invoke the Fifth Amendment with respect to that question.
MR. MALLETTE:
And I object on attorney/client privilege and Work Product Doctrine grounds.
MR. TWIFORD:
Q. Would you describe all prior relationships, say, for the last five years, between Scruggs law firm, any member of Scruggs law firm any Zuckerman Spaeder law firm, other than representation of the Rigsby sisters?
MR. MALLETTE:
I object on Work Product Doctrine grounds, potentially, and attorney/client privilege grounds, based on the scope of your question.
MS. NICHOLSON:

And I object to the form.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
It's true, is it not, Mr. Scruggs, that the Zuckerman Spaeder firm does not represent any Hurricane Katrina policy -- State Farm policyholders in any litigation in Mississippi? That's true, is it not?
A. I invoke the Fifth Amendment with respect to that question.
Q. Would you list each and every case by name and jurisdiction in which Zuckerman Spaeder or Bill Taylor or Michael Smith, with both of whom were with the Zuckerman Spaeder firm, were employed by you, the Scruggs law firm or the Scruggs Katrina group to represent the Rigsby sisters?
MR. MALLETTE:
I'm sorry that's another one I need you to give me again, Hunter.
MR. TWIFORD:
Basically, list each case in which they've been employed to represent Zuckerman Spaeder has been employed to represent the

Rigsby sisters.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Did you or the Scruggs law firm or any member there of or anyone of the SKG enter into any written agreement with Zuckerman Spaeder to pay any or all Cori or Kerri Rigsby's legal bills?
A. I invoke the Fifth Amendment with respect to that question.
Q. Have you or the SKG or any member of the Scruggs law firm paid any portion of those bills?
A. I invoke the Fifth Amendment with respect to that question.
Q. What is the total amount that's been paid by Scruggs Katrina group, Scruggs law firm or you or any member there of to Zuckerman Spaeder on behalf of Cori or Kerri Rigsby for legal representation to date?
MR. MALLETTE:
And I object as beyond the scope of this deposition.
MS. NICHOLSON:

And object to the form.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Are there any current agreements between Scruggs law firm, SKG and Zuckerman Spaeder relating to the representation of the Rigsby sisters?
MR. MALLETTE:
I object to the form and to the extent it seeks a legal conclusion.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Did you inform the attorneys at Zuckerman Spaeder that the Rigsbys were clients of the Scruggs Katrina group in certain matters?
A. I invoke my Fifth Amendment rights with respect to that question.
Q. Did you inform any of the attorneys at Zuckerman Spaeder that the Rigsbys were paid litigation consultants of the SKG or the Scruggs law firm?
A. I invoke the Fifth Amendment with

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respect to that question.
Q. What instructions, if any, did you or the Scruggs law firm or the Scruggs Katrina group give to the attorneys at Zuckerman Spaeder regarding a disclosure of these relationships?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
A. I take the fifth amendment with respect to that question.
MR. TWIFORD:
Q. Do you personally have any agreements with I or Kerri Rigsby regarding Zuckerman Spaeder payments that are outstanding?
A. I invoke the Fifth Amendment with respect to that question.
Q. Who selected the Bartimus Frickleton Robertson goring firm in Missouri to represent Cori and Kerri Rigsby in the qui tam action?
MR. MALLETTE:
I object on attorney/client privilege and work product doctrine grounds.

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A. I invoke the Fifth Amendment with respect to that question.
Q. Would you please describe all prior contacts or association or relationship between any of the attorneys at Bart I must Frickleton, Chip Robertson, marry Dewitt, Tony Mary winters, between any of them or the Scruggs law firm or the Scruggs Katrina group, any prior relationships or associations?
MR. MALLETTE:
I object to the form. I object it invades the attorney/client privilege and the Work Product Doctrine, given the breadth of the question.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. It's true, is it not, Mr. Scruggs, that Chip Robertson was associated by the SKG to argue days he's in the Fifth Circuit?
A. I invoke my Fifth Amendment right with respect to that question.
Q. Would you describe all relationships between any members of Bartimus Frickleton

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and other members of the SKG besides the Scruggs law firm?
MR. MALLETTE:
I object as beyond the scope of this deposition.
MS. NICHOLSON:
Join.
A. And I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Would you list each and every case by name and jurisdiction in which Bartimus Frickleton or any of their attorneys were employed by you -- employed or associated by you, the Scruggs law firm or the Scruggs Katrina group to represent the Rigsby sisters?
MR. MALLETTE:
Again, I object as beyond the scope of this deposition and as harassing beyond what he could be expected to answer at a deposition.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights

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with respect to that question.
MR. TWIFORD:
Q. Did you or the SKG or any member of Scruggs law firm sign any agreements with any of the members of barber sprinkle ton regarding the payment of any fees or expenses related or incurred by -- or related to Cori or Kerri Rigsby?
A. I invoke the Fifth Amendment with respect to that question.
Q. What's the current arrangement between the Scruggs law firm, the SKG or any members there of and Bart us Frickleton -- Bartimus Frickleton related to the qui tam action?
A. I invoke the Fifth Amendment with respect to that question.
Q. Is there an agreement that Bartimus Frickleton may be entitled to recovery of quantum meruit fees or fees on a quantum meruit basis to the best of your knowledge?
A. I invoke the Fifth Amendment.
MS. NICHOLSON:
We object to that question and the one before it as being in excess of the

scope of this deposition.
MR. MALLETTE:
And being redundant as to the documents before and I join in your objection.
MR. TWIFORD:
Q. What arrangement is there between the Scruggs law firm and the SKG and Bartimus Frickleton as to their entitlement to recover any portion of expenses from the qui tam action?
A. I invoke my Fifth Amendment rights with respect to that question.
MS. NICHOLSON:
I'll object to that question as being outside the scope of this deposition.
MR. TWIFORD:
I'm going to ask, if you all don't mind in the future, why don't you go ahead and make your objections and then we'll let Zach answer instead of him answering and you all objecting.
MS. NICHOLSON:
That's fine.
MR. TWIFORD:

Then we cannot onto two questions back. I'm not waiving anything by saying that.
Q. What is your understanding of -- or, I'm sorry, who selected the Bartle, Marcus Graves law firm in Missouri to represent the Rigsby sisters in any respect?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Object to the form.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Would you describe all prior contacts, associations, relationships between the Scruggs law firm, the Scruggs Katrina group and any members of the -- I'm sorry, the Bartle, Marcus, Graves firm and specifically including Todd Graves?
MR. MALLETTE:
I object to the form of the question and I -- I object to the form of the question.

MS. NICHOLSON:
I join.
A. I invoke my right against self incrimination in the Fifth Amendment.
Q. Could you describe all prior relationships between the Bartle, Marcus form and other members of the SKG to the extent that you have knowledge of those?
MR. MALLETTE:
Same objection to the form of the question.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Would you list each and every case by name and jurisdiction in which the Bartle, Marcus, Graves firm or any members of that firm were employed by you or the SKG to represent the Rigsby sisters?
MR. ROBIE:
I think you misspoke. I think you said Battle.
MR. TWIFORD:

Bartle, Marcus.
MR. MALLETTE:
And I object to the form of the question.
A. I invoke my Fifth Amendment rights with respect to that question.
Q. Did you sign any agreements individually or on behalf of the SKG to pay any or all of Cori or Kerri Rigsby's bills from Bartle, Marcus Graves?
A. I invoke my Fifth Amendment rights with respect to that question.
Q. Have you paid any bills to Bartle, Marcus, Graves firm? And to the extent that I have misstated the name of the firm, I've seen Bartle, Marcus Graves?
A. And I've just been handed a copy of a letter in which it was referred to as Graves, Bartle, Marcus. For the purpose of my questions, I'm referring to the firm in which Todd Graves is a member that was of counsel with the Scruggs law firm in the qui tam action, just for the clarification. Okay? You don't have to answer that.
Did you inform any of the attorneys

at Todd Graves' law firm that the Rigsby sisters were clients of the SKG in other matters besides the qui tam action?
MR. MALLETTE:
I object to work product and attorney/client grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Did you inform the attorneys at that law firm that the Rigsbys were paid litigation consultants of the Scruggs law firm or the SKG?
MR. MALLETTE:
Same objection as to attorney client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Do you personally have any agreements with Cori and Kerri Rigsby

regarding payments to the Bartle, Marcus, Graves law firm?
A. I invoke the Fifth Amendment with respect to that question.
Q. And have you paid any monies or has the Scruggs law firm paid any monies to the Bartle, Marcus, Graves law firm on behalf of the Rigsbys in the qui tam action?
MR. MALLETTE:
I object as beyond the scope of this deposition.
A. I invoke the Fifth Amendment with respect to that question.
Q. Mr. Scruggs, as part of the employment agreement with the Rigsby sisters, one of the benefits that was given to them, was it not, that the Scruggs law firm agreed to indemnify Cori and Kerri Rigsby from any and all damages, including legal expenses, attorneys' fees and costs or monetary damages arising out of the employment by you or the Scruggs law firm or the SKG or their adjustment of Hurricane Katrina cases as adjusters for State Farm? Is that true?

MR. MALLETTE:
Object to the form.
A. Any voc my Fifth Amendment rights with respect to that question.
Q. Would you please describe for the court the terms and conditions of the indemnity agreement with Cori and Kerri Rigsby?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Is Dick Scruggs personally an indemnitor under that agreement?
MR. MALLETTE:
I object to the form and it's beyond the scope of this deposition.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
Q. Are you personally, Mr. Scruggs, are

you, Zach Scruggs Scruggs, an indemnitor of that agreement?
MR. MALLETTE:
I object to the form and I object as beyond the scope of this deposition.
MS. NICHOLSON:
Join.
A. And I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. In fact, the Scruggs law firm, itself, as well, as an indemnitor of the Rigsby sisters, was it not?
MR. MALLETTE:
Object to the form and object as beyond the scope of this deposition.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. And your aware, are you not, Mr. Scruggs, that John Keker, who is representing your father, I believe, in the criminal action, represented to judge Acker in the Renfroe V Rigsby Alabama litigation at a December 14th, 2007 hearing that he was

indemnifying the Rigsby sisters in the Renfroe V Rigsby case in all of its aspects; is that correct?
MR. MALLETTE:
I'll object to the form again and ask what does this have to do with the deposition he was subpoenaed to regarding documents produced?
MR. TWIFORD:
We were entitled to explore the entire issue about the Rigsby sisters and their by asbestos employees of the Katrina -- Scruggs Katrina group.
MR. MALLETTE:
The entire issue about --
MR. TWIFORD:
Additionally, there are going to be multiple documents that were in the production that were made to State Farm that we weren't copied on, by the way, that relate to the Renfroe V Rigsby litigation and e-mails from Zach Scruggs to others that specifically relate to that litigation.
MR. MALLETTE:
So with regard to the McIntosh

litigation, is there a response as to how this relates to the McIntosh litigation?
MR. TWIFORD:
Yes. It's -- make your objection and then we'll take it up with the court, just like --
MR. MALLETTE:
I object to the form of the question as beyond the scope of the deposition.
MS. NICHOLSON:
Join.
A. I take the Fifth Amendment strike strike I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Let me mark this as Exhibit 21.
(Exhibit 21 was marked.)
MR. MALLETTE:
Is that not already in the record?
MR. TWIFORD:
I frankly can't answer because these documents came from the disk that was provided, not from the hard copies that were provided to State Farm. It's my understanding we can confirm with State

Farm's counsel that they did not Bates Number the documents on the disk. They Bates numbered the hard copies. And this came from the disk. So it does not have a Bates Number. To the extent that it's duplicative, I certainly have no objection to substitution of Mr. Robe I's exhibit.
MR. MALLETTE:
I think it's just as quick to ask your questions.
MR. TWIFORD:
Q. This is a copy, Mr. Scruggs, of an August 6th, 2007 e-mail from you to Michael Kunzelman at AP. The R E line is story, and there's an attachment, false claims act, First Amended Complaint, dot, dot. And I'll ask you if you will take a look at that for a second. The first paragraph reads, thanks, Mike. That seems accurate to me. Since you added something about Birmingham, you may want to consider also putting something in about the complaint also suing Renfroe for retaliating against the Rigsbys by filing that injunction against them in Alabama. Did I read that accurately?

A. I invoke my Fifth Amendment rights with respect to that question.
MR. ROBIE:
I believe it's already an exhibit.
MR. TWIFORD:
It may be an exhibit, Mr. Robie.
MR. ROBIE:
I really don't mean to interrupt. I'm asking Dan to hand me the exhibits so I can follow along and we can /SWAUL numbers.
MR. TWIFORD:
I apologize. They never made it down to us so I didn't see exactly what you all put in.
Is that a true and correct copy of the e-mail you sent to Michael Kunzelman on April 6, 2007, Mr. Scruggs? I'm sorry did I say April the 6th?
MR. MALLETTE:
I object to the form of the question.
MR. TWIFORD:
Q. I apologize. Is that a true and correct copy of the e-mail you sent to Michael sons will man on Monday, August 6th,

2007?
A. I invoke my Fifth Amendment rights with regard to that question.
MR. WALKER:
For the record, in substance, it appears to be the same as Exhibit 18 which has been previously admitted.
MR. TWIFORD:
I believe that's correct, other than there is a two-hour time difference on the time of sending. The Exhibit 18 is shown to have been sent at 3:28 p.m. and exhibit 21 is shown to have been sent at 1:28 p.m. we'll withdraw Exhibit 21 ran substitute Exhibit 18. Ck Exhibit 21 is withdrawn.
MR. TWIFORD:
Q. Mr. Scruggs, is the indemnification by the Scruggs law firm and the SKG of the Rigsby sisters still in full force and effect?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights

with regard to that question.
MR. TWIFORD:
Q. Is that in the McIntosh case?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke my fifth amendments rights.
Q. Do you have an agreement to indemnify the Rigsby sisters as a result of the Shows case?
MR. MALLETTE:
I object to the form and outside the scope of this deposition.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Does the indemnification also flow to the and any group cases?
MR. MALLETTE:
Object to the form and I object as beyond the scope of this deposition?
MS. NICHOLSON:

Join.
A. Any voc my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Is that indemnification agreement in writing?
MR. MALLETTE:
Object to the form.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. You, as an attorney, your aware, are you not, of the provisions of the Mississippi statute of frauds regarding indemnification?
A. I invoke my Fifth Amendment rights with respect to that question.
Q. You were also acting at the attorney for Cori and Kerri Rigsby, were you not?
MR. MALLETTE:
Object to the form.
A. I invoke my Fifth Amendment rights with respect to that question.
Q. Did you advise Cori and Kerri Rigsby about the statute of frauds and as a result

any indemnification agreement might have to be in writing in order to comply?
MR. MALLETTE:
I object to attorney work product grounds as well as to the form of the question. :off record:
MR. TWIFORD:
Q. I don't believe she knowed you actually answering the last question, and that was did you advise Cori and Kerri Rigsby about the Mississippi statute of frauds, and that as a result of that, that any indemnification agreement might have to be in writing in order to be valid and enforceable?
MR. MALLETTE:
I object to the form as to attorney/client privilege and Work Product Doctrine, as well.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. How much has been paid to anyone to date under the indemnification agreement in which the Scruggs law firm or the Scruggs

Katrina group agreed to indemnify Cori and Kerri Rigsby?
MR. MALLETTE:
I object to the form.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. To whom have any amounts been paid under the indemnification agreement?
MR. MALLETTE:
Object to the form.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. And by whom were any amounts paid under the indemnification agreement under which the Scruggs law firm or the SKG agreed to indemnify Cori and Kerri Rigsby?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:

Q. Mr. Scruggs, are you a party, personally, to the lawsuit brought against the Zuckerman Spaeder law firm regarding attorney's fees?
MR. MALLETTE:
Object to the form and object as beyond the scope of discovery.
MS. NICHOLSON:
Join.
MR. MALLETTE:
In this deposition.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. There's a date of first contact of anyone with the Scruggs law firm or the SKG with Chris and Pam McIntosh?
A. I invoke the Fifth Amendment with respect to that question.
Q. You are aware, Mr. Scruggs, that the McIntoshes were previously represented by other counsel?
MR. MALLETTE:
I object on attorney/client privilege grounds.

MS. NICHOLSON:
Same objection.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Are there any agreements between the Scruggs law firm or the SKG with McIntosh's former counsel?
MS. NICHOLSON:
Object to the form and attorney/client privilege.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Now, the McIntoshes were actually included in a prior settlement with State Farm, were they not?
MS. NICHOLSON:
Object to the form 6789 work product, attorney/client privilege.
MR. MALLETTE:
Same objections.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:

Q. As matter of fact, Dick Scruggs and the Scruggs litigation group -- I'm sorry, the Scruggs law firm were actually responsible for allocations of amounts due each plaintiff from the gross proceeds of the settlement of that claim, were they not?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form, attorney/client privilege, Work Product Doctrine.
A. I invoke the Fifth Amendment with respect to that question.
Q. Isn't it true that Dick Scruggs and the McIntoshes had entered into an agreement that they would receive net proceeds of $1.4 million from that settlement?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Attorney/client -- object on the basis of attorney/client privilege and Work Product Doctrine.
A. I invoke the Fifth Amendment with respect to that question.

Q. Ant reason that was going to be a net figure, Mr. Scruggs, is because the attorney's fees were going to be paid separately, correct?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form, attorney/client privilege Work Product Doctrine.
A. I invoke the Fifth Amendment.
MR. TWIFORD:
Q. And it's true that the McIntoshes opted out of that settlement, even though initially State Farm was informed that they would be included?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form, attorney/client privilege, Work Product Doctrine.
A. I invoke the fifth amendment with respect to that question.
MR. TWIFORD:
Q. And it's true, isn't it, Mr. Scruggs, that the Scruggs law firm has -- or

members of the Scruggs law firm have personally guaranteed Mr. and Mrs. McIntosh that they would receive at least that amount from the current lawsuit?
MR. MALLETTE:
Object to the form, attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.
A. Any voc the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. And that if they receive less than that at any trial, that the Scruggs law firm or the members of the Scruggs law firm would personally make up the difference?
MR. MALLETTE:
Same objections as the last question.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Was there any contact between the

Scruggs law firm or the SKG with the McIntoshes prior to the 20/20 -- airing of the 20/20 program 1234?
MS. NICHOLSON:
Object to the form, attorney/client privilege, Work Product Doctrine.
A. Invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Did the Scruggs law firm or the SKG initiate the contact with the McIntoshes?
MS. NICHOLSON:
Attorney/client privilege, Work Product Doctrine.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Scruggs law firm, Scruggs Katrina group have now withdrawn from the representation of the McIntoshes; is that correct?
A. I invoke the Fifth Amendment with respect to that question.
Q. What prior contacts or agreements did the Scruggs law firm or any member of

the SKG have with the Merlin law group?
MR. MALLETTE:
Object to the form, attorney/client privilege and potentially Work Product Doctrine, given the scope of the question.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. What agreements regarding the division of fees or the expenses does the Scruggs law firm or the SKG currently have with the Merlin law group, the current counsel for the McIntoshes?
MS. NICHOLSON:
Object to the form, attorney/client privilege, Work Product Doctrine.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Are the -- is the Scruggs law firm or are the members of the SKG entitled to any quantum meruit fees from the -- for work previously performed in the McIntosh case?

MR. MALLETTE:
Object to the form and to the extent it seeks a legal conclusion from the witness.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Is there any agreement between the Scruggs law firm or the SKG and the Merlin law group regarding reimbursement of expenses in the McIntosh lawsuit?
MS. NICHOLSON:
Object to the form, attorney/client privilege, Work Product Doctrine.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. What arrangements, to the best of your knowledge, does the KLG, the Katrina litigation group, the successor to the Scruggses litigation group, have with the Merlin law firm as to fees and expenses in the McIntosh case?
MS. NICHOLSON:
Attorney/client privilege, Work

Product Doctrine.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Has the Scruggs law firm ever been associated with any previous cases not Katrina-related cases with the Merlin law firm?
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Has any member of the Katrina litigation group been associated with the Merlin law firm on any non-Katrina-related cases?
MS. NICHOLSON:
Attorney/client privilege.
A. I invoke the attorney -- excuse me, I invoke the Fifth Amendment with respect to that question.
Q. Do you have any personal knowledge as to whether the Merlin law group has ever referred to any cases to the Scruggs law firm or any members of the SKG?
MS. NICHOLSON:

Object for the attorney/client privilege and the Work Product Doctrine, and also exceeding the scope of this deposition.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Did the Scruggs law firm or any members there of or of the Katrina litigation group recommend the Merlin law group to the McIntoshes as substitute counsel?
MR. MALLETTE:
I object on attorney/client privilege and Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. Invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. The McIntosh case, it's true, is it not, that Renfroe was not a defendant in the complaint as initially filed?
A. Invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:

Q. It's true, is it not, Mr. Scruggs, that Renfroe was only added subsequently in the amended complaint, is it not?
A. I invoke the fifth morning endment with respect to that question.
Q. The amended complaint that added Renfroe as a defendant was not actually filed until Renfroe had first filed the complaint in Alabama against the Rigsby sisters for breach of employment contract and for other claims; is that correct?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I I invoke the Fifth Amendment with respect to that question.
Q. It's true is it not, Mr. Scruggs, that Renfroe was added as a defendant in the McIntosh case in retaliation for Renfroe having sued the Rigsby sisters in Alabama?
MR. MALLETTE:
Object on attorney/client work product grounds.
MS. NICHOLSON:

Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. It's true, is it not, Mr. Scruggs, that your father, Dick Scruggs, was referred by judge Acker in the Renfroe V Rigsby case to the U.S. attorney's office and subsequently to special prosecutors for consideration of criminal contempt charges against him in the Alabama proceeding. That's true, is it not?
MR. MALLETTE:
I object to the form. That's beyond the scope of the deposition of the witness.
MS. NICHOLSON:
We join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. It's true, is it not, Mr. Scruggs, that immediately thereafter, the Scruggs law firm and the SKG filed a complaint in the shows case naming E.A. Renfroe Company and J A N A and Gene Renfroe individually as

defendants, is it not?
MR. MALLETTE:
I object again to the form and beyond the scope of the deposition of the witness.
MS. NICHOLSON:
Join.
MR. TWIFORD:
Q. And Renfroe and J A N A and Gene Renfroe were sued in the shows case in retaliation for the actions taken by judge Acker in the Alabama Renfroe V Rigsby litigation; is that true?
MR. MALLETTE:
I object to the form of the question. It has nothing to do with the documents that you went to the judge and got permission to take the deposition on.
MR. TWIFORD:
I may answer the question.
MS. NICHOLSON:
I join in that objection.
A. I invoke my Fifth Amendment with respect to that question.
MR. TWIFORD:

Q. Would you please relate to the court all discussions that were had by members of the Scruggs law firm or the SKG with forensic -- the other defendant in McIntosh, in the summer of 2006 prior to the 20/20 program being erred?
MR. MALLETTE:
I'm sorry relate all what, conversations?
MR. TWIFORD:
Yes, discussions with forensic.
MR. MALLETTE:
I object on Work Product Doctrine grounds.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment privilege with respect to that question.
MR. TWIFORD:
Q. As a matter of fact, Mr. Scruggs, you and members of the Scruggs law firm made public statements that Brian Ford, who was acting as an engineer for forensic, would cooperate in the McIntosh litigation, did you not?

MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form.
A. Invoke my Fifth Amendment privilege with respect to that question.
MR. TWIFORD:
Q. Would you please detail for the Courtney discussions between the Scruggs law firm or any member of the SKG with Bob Kochan, president of Forensic?
MR. MALLETTE:
I object on work product grounds and I object to the form in so much as it asks him to relate other people's conversations.
MS. NICHOLSON:
Join.
A. I in robing my Fifth Amendment right with respect to that question.
MR. TWIFORD:
Q. What discussions, if any, did you have with Nellie Williams, shoot office manager for Forensic?
A. I invoke my fifth amendment right with respect to that question.

MR. TWIFORD:
Q. To the best of your knowledge, what discussions did any other members of SKG have with Nellie Williams, who is the office manager Forensic?
MS. NICHOLSON:
Objection, work product.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Would you please describe any documents received by the Scruggs law firm or the SKG from Forensic that have not been produced to the other defendants in the McIntosh case?
MR. MALLETTE:
Object to the form.
A. I invoke my Fifth Amendment right with respect to that question.
MR. TWIFORD:
Q. The Scruggs law firm and the SKG settled their claims in the McIntosh case against Forensic, did they not?
A. I invoke my Fifth Amendment rights with respect to that question.

Q. And I'm not sure that Forensic has actually been formally dismissed from the lawsuit, but it is your intent, is it not, to dismiss them and not to proceed against them in the McIntosh case?
MR. MALLETTE:
Objection on work product doctrine, attorney/client grounds.
MS. NICHOLSON:
Object to the form.
A. I invoke my Fifth Amendment rights.
MR. TWIFORD:
Q. It's true that part of the settlement with Forensic did not pay any money to anyone in the McIntosh case; is that true?
MS. NICHOLSON:
Object to the form.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. It's true, is it not, Mr. Scruggs, that Forensic, as part of that settlement, agreed to cooperate with the SKG in pursuing the claims of the McIntoshes against State

Farm and the other defendants, including Renfroe? That's true, is it not?
MR. MALLETTE:
Hunter, may I have just one minute? I'm not going to counsel him on his testimony but I have a question too for him.
(Off the record.)
Q. It's true, is it not, Mr. Scruggs, that Forensic, as part of the settlement, agreed to cue operate with the SKG in pursuing the /KHRAEUPLGS of the McIntoshes against State Farm and the other defendants, including Renfroe? That's true, is it not?
MS. NICHOLSON:
We're going to object to that question and also that whole line of questioning as attorney work product and also because the negotiations of that settlement, if any, are confidential note /TU /TU you may answer.
A. I invoke my rights with respect to that question.
MR. MALLETTE:
And I join.
MR. TWIFORD:

Q. It's true, is it not, Mr. Scruggs, that as part of that settlement with Forensic that Forensic delivered a number of documents to the SKG and the Scruggs law firm, is it not?
MS. NICHOLSON:
Same objection as to the last question.
MR. MALLETTE:
Join in the same objections.
A. And I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. It's also true, is it not, Mr. Scruggs, that as part of that settlement agreement that Forensic gave the Scruggs law firm and the SKG access to Forensic employees and engineers who gave statements relative to claims, including the McIntosh claims? That's true, is it not?
MS. NICHOLSON:
Same objections as the last two questions.
MR. MALLETTE:
Join again.

A. I invoke my Fifth Amendment right with respect to that question.
MR. TWIFORD:
Q. Let me cleanup something, Mr. Scruggs, that I forgot to ask you a minute ago. When the Scruggs law firm and the SKG withdrew as counsel for the McIntoshes, and at that point in time, Scruggs law firm and the SKG still had all of the relevant documents, including the documents that were stolen from State Farm, such as those that you still had. They had the Rigsby computer /-GS, they had the Rigsby cell phones and they had the regular working file, as well, for the McIntosh case; is that correct?
MR. MALLETTE:
Onto the form.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. And when the Merlin law group made an entry of appearance as counsel for the McIntoshes, did any member of the /KRUGS law

firm or the SKG meet with any member of the Merlin law group and discuss specific facts and circumstances regarding the McIntosh lawsuit? I'm not asking you what was said, asking you whether you met?
MR. MALLETTE:
I object as to Work Product Doctrine.
MS. NICHOLSON:
We join, attorney/client privilege and exceeds the scope of this deposition.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Isn't it true, Mr. Scruggs, that the Scruggs law firm and the SKG delivered to the Merlin law group all documents in its possession related to the McIntosh claim as part of the hand off of that case?
MR. MALLETTE:
Object to the form, attorney/client privilege, Work Product Doctrine, exceeds the scope of this deposition.
MR. MALLETTE:
And I join in those objections.

A. I invoke my Fifth Amendment rights as to that question.
Q. It would be true, Mr. Scruggs, that as to the Scruggs law firm had any documents or copies of any documents that had been stolen from State Farm and the Renfroes, that those would have likewise been delivered to the Merlin law group as part of that hand off?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Object to the form, attorney/client privilege, work product.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. And it's true, Mr. Scruggs, is it not, that the laptops that the Scruggs law firm and the SKG had furnished to the Rigsbys were also delivered to the Merlin law group as part of that hand off?
MS. NICHOLSON:
Object to the form, work product, attorney/client privilege.

A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. And it's true, is it not, Mr. Scruggs, that all cell telephone records, including billing records for the cell phones that were furnished by the SKG or the Scruggs law firm to the Rigsby sisters were likewise delivered to the Merlin law group as part of the hand off in the McIntosh case?
MS. NICHOLSON:
Object to the form, attorney/client privilege, Work Product Doctrine.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. So the entire physical file maintained by the Scruggs law firm or the SKG was delivered to the Merlin law group as part of the hand off; is that correct?
MR. MALLETTE:
Object on Work Product Doctrine grounds.
MS. NICHOLSON:

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Join.
A. I invoke the fifth with respect to that question, the Fifth Amendment, that is.
MR. TWIFORD:
Q. Would you describe, in detail, please, the agreement between the Scruggs law firm and the SKG with Brian Ford?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Mr. Ford was going to be a paid litigation consultant for the SKG and Scruggs law firm, just like the Rigsbys, wasn't he?
MR. MALLETTE:
Object to the form, no predicate.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:

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Q. And Mr. Ford demanded a percentage of fees as part of his consulting payments to act as a consulting witness, and that's what blew it up, isn't it?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Ford was actually paid some by the Scruggs law firm and the Scruggs Katrina group as a litigation consultant, wasn't he?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. How much was actually paid by the Scruggs law firm and Scruggs Katrina group to bribe Ford? Nil mill I object to the form, object as harassment, beyond the scope

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of the deposition.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:
Q. Did you, Mr. Scruggs, Zach Scruggs, individually, personally, release any documents to reporteders that had been stolen from State Farm or the Renfroes that were subject to judge Acker's injunction in the Renfroe V Rigsby case?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. What is the name of the Nashville public relations firm that was employed by the Scruggs Katrina group to help run the media campaign against State Farm and the Renfroes?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:

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Join.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. Does Scruggs law firm or the Scruggs Katrina group maintain copies of correspondence between the Nashville P R firm and yourselves regarding this media campaign?
MR. MALLETTE:
Object to the form.
A. I invoke my Fifth Amendment right with respect to that question.
MR. TWIFORD:
Q. Does the Scruggs law firm or the SKG have any arrangements with the Provost, Umphrey law firm out of Texas for any cases involving State Farm litigation against State Farm and the Renfroes?
MR. MALLETTE:
Object as to attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join, and exceeds the scope of his deposition.

A. I invoke my Fifth Amendment rights with respect to that question.
MR. TWIFORD:
Q. What information have you, the Scruggs law firm or the SKG, received from representative Gene Taylor regarding the National Flood Insurance Program?
MS. NICHOLSON:
Work Product Doctrine, attorney /KHRAOEUP /EPBT privilege.
MR. MALLETTE:
Same objection.
A. I invoke my Fifth Amendment rights with respect to that question.
MR. MALLETTE:
And also object as to form. If you need to ask it again, I'm sorry about that.
MR. TWIFORD:
Q. And would you describe all contacts with former Senator Trent Lott and the Scruggs law firm, any member, or the SKG, related to the National Flood Insurance Program or any congressional hearings on the NFIP?
MR. MALLETTE:

Object as to form, attorney/client privilege and Work Product Doctrine.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment right with respect to that question.
MR. TWIFORD:
Q. I didn't ask you whether you had any discussions with Congressman Taylor regarding NFIP issues or congressional -- about congressional hearings so let me ask you specifically. Did you or any member of the Scruggs law firm or SKG have any discussions with Congressman Taylor regarding the National Flood Insurance Program or the congressional hearings regarding those?
MR. MALLETTE:
Object to the form and, again, to attorney/client privilege and Work Product Doctrine violations.
MS. NICHOLSON:
Join.
A. I invoke my Fifth Amendment right with respect to that question.

MR. TWIFORD:
Q. Have you had e-mail communications with the staff members of either former Senator Lott's office or Congressman Taylor's office regarding State Farm or Renfroe?
MR. MALLETTE:
Object to the form.
A. I invoke my fifth morning endment right with respect to that question.
MR. TWIFORD:
Q. So all e-mail communications with staff members of either former Senator Lott or Congressman Taylor regarding State Farm, Renfroe and NFIP issues would be maintained in the Scruggs law firm e-mail database; is that correct?
MR. MALLETTE:
Object to the form.
MS. NICHOLSON:
Join.
A. I invoke the Fifth Amendment with respect to that question.
MR. TWIFORD:

I believe that's all of the questions I have. Thank you, Mr. Scruggs.
MS. NICHOLSON:
No questions for us. End depo at 4:16 p.m.

Zach Scruggs

From: Zach Scruggs [zachscruggs@scruggsfirm.com]
Sent: Friday, July 28, 2006 1:56 PM
To: Rhee, Joseph E
Subject: RE: abc news

Oh I know yall talked, I am just following up. Sorry it took us a day or 2 to get back with you but we are well under way now.
Thanks for everything.

Zach

From: Rhee, Joseph E [mailto:Joseph.E.Rhee@abc.com]
Sent: Friday, July 28, 2006 1:52 PM
To: Zach Scruggs
Subject: RE: abc news

Hi! I spoke to Dick yesterday, and he was very helpful. I think we're all set.. but the week before we plan to shoot, I will contact your office to arrange all the details.

Regards,

Joe

> -----Original Message-----
> **From:** Zach Scruggs [mailto:zachscruggs@scruggsfirm.com]
> **Sent:** Friday, July 28, 2006 2:48 PM
> **To:** Rhee, Joseph E
> **Subject:** RE: abc news
>
> Joe,
>
> Just let Dick or me know what you need for the primetime show.
>
> Zach
>
> **From:** Rhee, Joseph E [mailto:Joseph.E.Rhee@abc.com]
> **Sent:** Tuesday, July 25, 2006 9:46 AM
> **To:** Zach Scruggs
> **Subject:** abc news
>
> Hi Zach.. just checking to see if you had a chance to talk to Dick about scheduling the conference call I mentioned.
>
> -- Joe Rhee

From: Beth Jones <bethjones@scruggsfirm.com>
Sent: Monday, August 7, 2006 12:46 PM
To: 'Joe Rhee (Joseph.E.Rhee@ABC.com)'
Subject: RE: Engineering Reports

Mr. Scruggs wanted me to let you know that this information is not the information that is under seal.

Beth Jones
Executive Assistant to Richard F. Scruggs
Scruggs Law Firm
120 A Courthouse Square
P.O. Box 1136
Oxford, Mississippi 38655
Office: 662-281-1212
Fax: 662-281-1312
E-mail: bethjones@scruggsfirm.com

From: Beth Jones [mailto:bethjones@scruggsfirm.com]
Sent: Monday, August 07, 2006 2:35 PM
To: 'Joe Rhee (Joseph.E.Rhee@ABC.com)'
Subject: Engineering Reports

Mr. Scruggs asked that I send you these reports.

Thanks,
Beth

Beth Jones
Executive Assistant to Richard F. Scruggs
Scruggs Law Firm
120 A Courthouse Square
P.O. Box 1136
Oxford, Mississippi 38655
Office: 662-281-1212
Fax: 662-281-1312
E-mail: bethjones@scruggsfirm.com

From: Beth Jones <bethjones@scruggsfirm.com>
Sent: Monday, August 7, 2006 2:03 PM
To: 'joseph e rhee@abc.com'
Subject:
Attach: Final Evidentiary Disclosure PDF .pdf

IN THE UNITED STATES DISTRICT COURT OF MISSISSIPPI
SOUTHERN DISTRICT

UNITED STATES OF AMERICA EX REL. CORI RIGSBY, AND KERRI RIGSBY, Relators,	
vs	CASE NO _____
STATE FARM INSURANCE COMPANY	To Be Filed In Camera And Under Seal Pursuant To 31 Usc § 3731
NATIONWIDE INSURANCE COMPANY	
ALLSTATE INSURANCE COMPANY	
USAA INSURANCE COMPANY	
FORENSIC ANALYSIS ENGINEERING CORPORATION	
EXPONENT FAILURE ANALYSIS	
HAAG ENGINEERING CO.	
JADE ENGINEERING	
RIMKUS CONSULTING GROUP INC.	
STRUCTURES GROUP	

RELATOR'S EVIDENTIARY DISCLOSURE PURSUANT TO 31 USC § 3730

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INTRODUCTION

Cori Rigsby and Kerri Rigsby are employees of E. A. Renfroe, a company that provides claims adjustment services to insurance companies in disaster situations. They have been loyal employees for the past eight years. In the past eight years Cori has handled claims on the catastrophe teams of Travelers, Nationwide and State Farm. Kerri has handled claims for State Farm's catastrophe team. Until Katrina, the monster storm that literally wiped out several Mississippi communities, Kerri and Cori had always been proud to be associated with State Farm and Nationwide, even though they were not direct employees of State Farm.[1] With Katrina, Cori, Pat and Kerri saw a sea change in the way that claims were handled by State Farm and Nationwide with respect to how claims were adjusted with respect to flood insurance. The relators were shocked and horrified that the company that had previously dealt very fairly with its customers was now engaging in wholesale fraud both on policy holders and on the federal government. This False Claims Act case arose out of that experience.

This Evidentiary Disclosure provides an overview of the National Flood Insurance Program (NFIP) as well as a brief look at storm surge and the respective liabilities of insurers under the NFIP. It discloses the concrete existence of two separate instances where homeowners claims were fraudulently misallocated to flood insurance

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[1] Although neither Kerri nor Cori are State Farm employees, customers of State Farm would not know this because the relators are given cards identifying them as State Farm employees, are provided with notebook computers for logging their claims-related activities, and are issued jackets with State Farm's name on them. They are also issued a claims identifier number that identifies them as an adjuster within the State Farm system.

claims at the cost of both the homeowner and the federal government. This grew out of the total control that State Farm had in adjusting its losses [2]

OVERVIEW

Insurers Pushed Losses Onto The NFIP In Order To Protect Reserves.

This is a False Claims Act case that involves the National Flood Insurance Program, (NFIP) a federal insurance program that is managed by the Federal Emergency Management Agency, (FEMA). FEMA is the only entity in the United States that underwrites flood insurance. Although FEMA underwrites flood insurance, it does not sell directly to the public, but instead, operates through a series of independent insurance companies. At least two of these companies (State Farm and Nationwide), and on information and belief many more (USAA, Allstate), are engaged in a concerted effort to re-adjust losses in such a way that, where applicable, the payment for claims that would normally fall under the company's own homeowner's or hurricane coverage is instead transferred to the NFIP. The misallocation and transfer of losses from State Farm and Nationwide to the federal government was achieved through the use of purportedly "independent" professional engineers who were asked to conduct forensic analyses of the losses. Whenever a loss report from an engineer identified "wind" as the source of the damage, State Farm directed the engineers to recharacterize the damage as flood damage,

[2] Incredibly, the NFIP puts the fox squarely on guard duty for the hen house because it allows the insurers to adjust the losses in conjunction with the losses attributable to homeowners insurance. As a result, as shown below, the insurer has a strong incentive to reclassify damage as flood rather than wind.

and if an engineering firm refused, their contracts were cancelled and their services were never retained again.

Although the present scope of the fraud is unknown, it is known that in Mississippi alone State Farm has adjusted upwards of $1.2 billion in losses from Hurricane Katrina. If only ten percent of those claims are flood insurance claims, the scope of the fraud with State Farm alone could exceed $120,000,000. Relators information, obtained by direct work with State Farm and Nationwide Insurance, indicates that both insurers have a planned, systematic response to claims-handling that directs that claims be shuffled off to FEMA whenever and wherever possible. This system is operated by directing supposed independent contracting engineering firms to always find that flood, and not wind, caused the damage when doing a source investigation on the nature of the claim.

How Flood Insurance Claims Work

In most cases under the NFIP the federal government only acts as the funding source for paying and underwriting claims while the coverage is sold through private insurance companies. Although the companies sell the policies, the policy itself is a standard document drafted by FEMA. Federal regulations require adjustment according to federal standards.

When there is a claim under a Standard Flood Insurance Policy ("SFIP") the insurance company is required to adjust the claim in accordance with these federal regulations. The applicable regulation, 44 CFR § 62.23(d) provides: "A WYO Company issuing flood insurance coverage shall arrange for the adjustment, settlement, payment

and defense of all claims arising from polices of flood insurance it issues under the [National Flood Insurance Program], based on the terms and conditions of the Standard Flood Insurance Policy." In acting as the claims adjuster for the government, the WYO companies are fiscal agents of the government and payments on SFIP claims are a direct charge on the United States Treasury. See *Wright v. Allstate Ins. Co.*, 415 F.3d 384, 386-87 (5th Cir. 2005). To the extent that an insurer presents a claim for reimbursement under the SFIP to the federal government, that claim is presented to an officer or agent of the United States Government for payment, and any false claims are actionable under the *False Claims Act*.

Whenever an insurer like State Farm Insurance or Nationwide Insurance has sold a homeowner's policy or hurricane policy (one that the insurance company directly underwrites), and also issues a flood insurance policy under the NFIP, the flood insurance policy is never written for an amount that is larger than the homeowner's insurance policy or the accompanying hurricane insurance policy. More importantly, coverage is capped at $250,000 for structures and $100,000 for contents.

Under the NFIP rules and regulations, the insurance company that writes the companion flood insurance policy must adjust both the homeowners and the flood insurance claim. In doing so, there is a built-in conflict of interest. Because it adjusts the loss, and maintains control over the adjusting process (being solely responsible for gathering information in order to adjust the claim), the insurance company has an incentive to charge off **all damage** to the government as flood damage because when they do so, the government, acting through FEMA, pays the entire claim, thereby relieving the company of its obligation under its own policy of insurance. The only

situation where flood and homeowners or hurricane policies collide is in the area of hurricane damage.[3]

State Farm has, for some time, adopted the view that Flood Insurance is a superseding coverage in that if there is damage from wind and from flood, the flood policy is paid and the homeowner's insurance is never tapped for damages. State Farm has colloquially referred to this doctrine as the doctrine of concurrent causation. So, if a homeowner had only $40,000 in flood coverage, and $150,000 in homeowners or hurricane insurance, and suffered a total loss of their property from a hurricane, State Farm would offer to pay the $40,000 in flood coverage, and once paid, would disallow any claim on the homeowners or hurricane policies because in their view if there was flood damage it took precedence over the wind damage, even though the wind may have actually caused the damage to the structure. Thus State Farm has always viewed flood coverage as a mechanism to reduce the amount paid from its own reserves. If flood and some other cause worked to destroy a structure, the doctrine of concurrent causation meant that only the flood coverage was paid.[4]

The NFIP Definition of Flood

To reduce the potential for misallocation of claims, "flood" is a term narrowly defined by statute and rule. 42 USC § 4121(1) states "the term 'flood' shall have *such meaning as may be prescribed in regulations of the Director*, and may include inundation

---

[3] For example, in the case of a tornado or hail-related loss under a homeowners policy, losses related to water damage would be clearly incidental to the claim, and even though a policy might include a flood loss provision under the NFIP, the claim could not be easily disguished because the primary means of damage is wind or hail. But in the case of a hurricane, particularly in coastal areas with a storm surge, a sizeable amount of water may be involved. Irrespective of whether the damage resulted from waves and water or wind, the insurance company can hide a loss under the NFIP because both wind and water are associated with a hurricane.

[4] This doctrine is not codified in the NFIP statute nor is it codified in the NFIP regulations.

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from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge."

The director has provided the following definition of flood:

Flood, as used in this flood insurance policy, means:

> A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (one of which is your property) from:
>
> Overflow of inland or tidal waters,
>
> Unusual and rapid accumulation or runoff of surface waters from any source,
>
> Mudflow.
>
> Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined in A.1.a. above.

44 CFR Pt. 61, App. A(1)

A. Storm Surge Versus Flooding

Most of the flooding occurring in coastal areas of Mississippi due to the hurricane was associated with storm surge. This is a poorly understood phenomenon in most insurance companies[3]

Storm surge is simply water close to the hurricane's eye that is sucked upward by the intense low pressure inside the storm's eye. As the storm's eye moves toward shore, the depth of the ocean water decreases as the storm moves forward. The mound of water sucked upward by the eye's low pressure is pushed toward the shore by the force of the

[3] Meteorologists and FEMA understand the process of storm surge quite well, and identified only a very few areas as associated with storm surge and flooding during Katrina. Insurance companies, however, attributed an inordinate amount of damage to this phenomenon.

winds swirling around the storm. This advancing surge combines with the normal tides to create the hurricane storm tide, which can increase the mean water level 15 feet or more. In addition, wind driven waves are superimposed on the storm tide. This rise in water level can cause severe flooding in coastal areas, particularly when the storm tide coincides with the normal high tides. Because much of the United States' densely populated Atlantic and Gulf Coast coastlines lie less than 10 feet above mean sea level, the danger from storm tides is tremendous.

In general, the more intense the storm, and the closer a community is to the right-front (or northeast) quadrant, the larger the damage related to storm surge. However, since the surge comes ashore as the eye wall moves onto land, storm surge follows by four to six hours after the arrival of hurricane force winds. Thus flooding from storm surge would normally be seen only where the hurricane made landfall, and only in low-lying coastal areas

During Hurricane Katrina, FEMA identified only small parts of the Mississippi coast as flood damaged, generally around Bay St. Louis. The remainder was identified as hurricane damage. In most locations where defendants have written flood insurance and collected premiums under the NFIP, the companies have also written homeowners and hurricane insurance. Under the arrangement between the company and FEMA, (44 CFR Pt. 62, App. A), the government requires that when the company writes coverage for other perils and flood insurance, that one adjuster be used.

Based on relator's observations, and upon direction received from the defendants, beginning at about the time the first claims began to be submitted by adjusters for Hurricane Katrina, defendant made a corporate decision to misdirect and misallocate

claims from those of hurricane or homeowner's coverage (which it would be required to pay from its reserves or reinsurance) to flood claims that could be submitted and paid directly from the United States Treasury.

Defendant State Farm, and on information and belief, Nationwide Insurance Company, USAA, and Allstate all directed their employee adjusters and independent contractor adjusters to show flood damage whenever and wherever there was any amount of water damage, and to adjust the claim as flood insurance rather than hurricane insurance even though the primary mechanism for damage was wind, not flood waters. Where wind, or wind and water, made a structure unsalvageable, the claims were misallocated into flood insurance claims because flood insurance claims were paid by the US Treasury and did not come out of the company's reserves.

This misallocation of claims has resulted in significant damage to the federal treasury. Not only were the claims themselves paid out of federal funds, each loss was adjusted so as to "hit limits" so that as many dollars as possible would be charged against the NFIP. This because the larger the value of the claim, the larger the reimbursement for adjusting that claim. The cost of adjustment ($7,000 or more on a policy limits claim) is passed along to the federal government as a cost of adjustment.

Relators are aware of at least two specific instances where Defendant State Farm has engaged in such behavior. Worse, State Farm, aware that it has engaged in conduct that is false and fraudulent, is taking extraordinary steps to protect itself by shredding documents and hiring document shredding companies to dispose of documents at its Mississippi offices. The examples that follow are derived from Relators' personal knowledge.

On October 4, 2005, Insurance Adjuster Cody Perry issued an assignment to defendant Forensic Analysis Engineering Corporation (FAEC) for the purpose of having FAEC determine the nature of the destruction of the McIntosh property located at 2558 S Shore Dr., Biloxi, MS.

FAEC carried out the assignment on October 7, 2005. The firm did a site inspection and reached conclusions based on the inspection. It concluded that the damage that occurred to the policy holder's home at the time of the hurricane was due principally to wind, and not to water. That report was dated October 12, 2005. The report said.

CONCLUSIONS

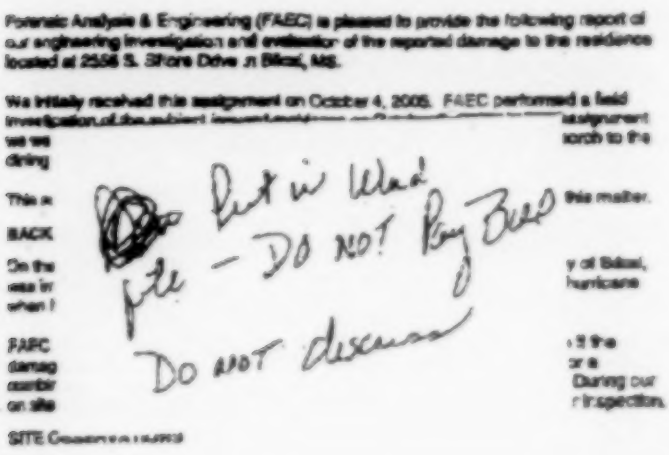
Based upon the information that has been presented to FAEC and evidence gleaned during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusion concerning the damage to the structure.

- **The tree failures in the northwesterly direction are the result of the winds out of the southeast from the approaching hurricane.**
- **The roof, door, carport, and window damage was caused by wind and wind driven debris.**
- **It is FAEC's opinion that the interior damage of the structure is primarily the result of the failure of the windows, walls, and doors due to wind.**

The conclusions and opinions presented in this report are based on the results of FAEC's field investigation of the subject residence, as well as our analysis of the available wind and localized water level data and upon all of the other associated information that we have gathered during the course of our investigation efforts to date. If additional information or facts become available which materially affect these stated conclusions and opinions, then, FAEC reserves the right to amend or change its opinions and conclusions as needed.

This report never became part of the permanent record of the McIntosh claim because it was recognized as contrary to the direction given to State Farm adjusters. On information and belief, Alexis "Lecky" King, a State Farm Insurance supervising adjuster

(and State Farm's guru on Flood Insurance) wrote the following note on the report: "Put in Wind file – DO NOT pay bill. Do Not Discuss" A copy of that note is shown below:


Forensic Analysis & Engineering (FAEC) is pleased to provide the following report of our engineering investigation and evaluation of the reported damage to the residence located at 2556 S. Shore Drive in Biloxi, MS.

We initially received this assignment on October 4, 2005. FAEC performed a field investigation of the subject [illegible] assignment was we during

This is BACK On the was in when I

FAEC damag examin on site

SITE

Put in Wind file – DO NOT Pay Bill

DO NOT discuss

assignment sorth to the

this matter.

y of Biloxi, hurricane

of the or a During our r inspection.

Thereafter, on October 20, FAEC was commissioned to write a completely different engineering report for the McIntosh claim That report was based on a site visit of October 18, 2005, and never disclosed the prior site visit. None of the previous observations were repeated, and many different observations completely at odds with the prior report were generated. Thereafter, the report found:

CONCLUSIONS

Based on the information that has been presented to FAEC and evidence gleaned during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusions concerning the damage to the structure:

- The tree failures in the northwesterly direction are the result of the winds out of the southeast from the approaching hurricane.
- There appears to have been damage to the structure by wind as evidenced by missing shingles on parts of the roof structure. Damage to the second story floor and first floor ceilings was predominately caused by wind and intruding rainwater.
- The damage to the first floor walls and floors appears to be predominately caused by rising water from the storm surge and waves.

On or about September 26, 2006, State Farm Adjuster Christy Sims commissioned a study by FAEC on the Mullins home at 6057 Pine Tree Drive, Kiln, MS.

Among the observations made by the engineers were that the structure had already been removed from the site, as required by FEMA, and that much of their analysis was based on photographs provided to the engineers by the homeowners:

SITE OBSERVATIONS

The following are the observations made during FAEC's inspection of the structure.

- Upon approaching the property the house had been already removed from the site as required by FEMA
- From attached photographs provided by the insured, the entire house has been taken off from its support piers and came to a rest against the house across the street. The house had rotated about 180 degrees and its front was facing south. The porch area was about in line with the center of the street.
- No significant damage to the house was observable in the insured's photos, except for the contact point with the neighboring house across the street.
- According to the insured, the water mud rose to 10 inches above the floor level at a neighboring residence close by. No water damage to the house could be appreciated from the photographs nor observed from the surroundings.
- The 24 inches high concrete block piers were in complete disarray. The blocks were not joined to each other nor anchored to the ground.
- With very few exceptions, all the trees around the observable area were standing straight and with all their foliage remaining.

The report concluded that the damage was due primarily to wind, and not to flooding.

The report's conclusion section stated:

CONCLUSIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how these conditions affected the neighborhood area of the insured residence; conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated:

- FAEC has concluded that the primary and predominant cause of damage to the subject property was due to hurricane force winds. This is based on the displacement of the house and the absence of water damage to the same. However, this displacement was facilitated by the poor anchoring and supporting observed

This report was received by State Farm or its adjusters shortly after the time it was written. An invoice was generated by FAEC, and submitted to State Farm for payment. The location of the property, and the presence of a flood insurance policy (likely information not known at the time of the original survey by FAEC) made it necessary to change the report and its characterization of wind damage.

FAEC was directed to make a second report on the basis of its survey. On or about January 3, 2006, FAEC submitted a different report predicated on the same site visit of October 11, 2005, but not mentioning the prior report. The report did not appear to be a superseding report, nor was it a supplemental. Instead, it was a complete re-write of the original. This subsequent report was completely different from the first report in that the observations included:

- There was tree damage in the neighborhood with trees falling to the west northwest.
- There was shingle damage to houses nearby.
- The owner of the trailer across the street, whose home was impacted by the insured's, indicated that the water had come up to the bottom of her trailer. This was estimated to be between 2 and 3 feet above grade.
- The foundation for the insured's home consisted of concrete block piers about 2 feet above grade. No tie downs were observed, however one photograph furnished by the insured pictured, what appeared to be, a minimally effective tie down.

In addition to omitting the information relative to trees and structures, and in addition to a complete re-write of the findings, the conclusion of the report stated a completely different finding than the report of October 11, 2005.

The report concluded that the damage was due to flood waters, saying:

CONCLUSIONS & OPINIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how those conditions affected the neighborhood area of the insured residence conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated:

- **The tree failures in the northwesterly direction were the result of winds out of the southeast from the approaching hurricane.**
- **The damage to the interior of the house could not be determined as no evidence was available.**
- **The movement of the house across the street with minimal obvious wind damage is consistent with a buoyant force applied to the building by rising water allowing the wind to blow the house northwards until it reached an obstruction.**

It is stark evidence of fraud that the same engineering contractor took a look at the same property and relied on the information from the same site visit, and not only reached different evidentiary findings, it reached completely different conclusion on the

same physical evidence. The timing of the report, combined with the message on the note not to pay the invoice and not to discuss the existence of the prior engineering report is evidence of an ongoing conspiracy between State Farm and its engineering contractor to present false claims to the federal government.

This is the gestalt of the relators' claims against the defendants. In hundreds and perhaps thousands of cases in Mississippi, Alabama, Louisiana and Texas the defendants have responded to hurricane and homeowner's claims where there is flood insurance by concluding nearly every time that flood waters arising out of the storm surge, and not wind, caused the damages. Defendants have done this specifically to misallocate the burden of paying claims from their own insurance reserves (and from re-insurance) to the federal government. This is a direct charge on the US Treasury, ***Wright v. Allstate Ins. Co.***, 415 F.3d 384, 386-87 (5th Cir. 2005), and is the submission of a false claim based on false records.

A MATTER OF URGENCY

When civil lawyers began to take issue with the way that State Farm and Nationwide were paying claims (or more precisely, not paying claims), State Farm recognized that there was a risk that records associated with their conduct (particularly the engineering reports) could be subpoenaed or, in a worst-case scenario, seized. State Farm has taken steps that are extraordinary to protect itself.

Relators have been directed to shred materials in conflict, and State Farm has positioned locked shredding trash cans around its offices for the disposal of contradictory

information. Engineering reports are not kept with the claims, and nearly all reports have been seized from the adjusters and placed under lock and key so as to prevent discovery of the fraud.

Some reports, particularly those that might be seized by state courts or ordered produced by state courts have already been moved from Mississippi to Texas.[6] State Farm, among others, is engaging in an internal witch-hunt to determine who may be leaking information to attorneys. Relators' positions are in serious jeopardy if their status as relators is disclosed.

Relators are concerned that a majority of the documents that exist are being shredded by the Insurance companies, and that individual engineering firms are being given the same direction. A shredding company, "Shred-It", visited the State Farm offices on April 12, 2006 and shredded large amounts of documents. While it would be nearly impossible for even the most obsessive insurer to destroy all the conflicting reports and silence all the engineers, delay by the government in following up this information will likely result in the loss of data and make recovery of the funds more difficult.

Relators know and would testify by affidavit that information from the engineering firms is being sent by facsimile, by electronic means, and by U.S. Mail. Relators are also certain that telephonic communications between Lecky King and the principals at the engineering firms are likely ongoing in an effort to make sure that no information leaks out.

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[6] Of course, since an action under the False Claims Act includes the ability to serve process anywhere in the United States where a company does business, the tactic of moving these documents to a different jurisdiction will be ineffective against the United States Department of Justice.

Relators' main concern is that immediate action is necessary to prevent the additional wholesale shredding of documents by the Defendants in this matter.

WHO ARE THE RELATORS

Cori Rigsby and Kerri Rigsby are sisters who currently work for E. A. Renfroe, an adjustment company that leases its adjusters to the various insurance companies across the country. It specializes in providing adjusters to handle catastrophes by having personnel trained on State Farm and other insurers' equipment, policies, and procedures, and being able to provide them quickly when a catastrophe occurs.

Cori's job involves working with various insurers including Travelers, State Farm and Nationwide. Over the past eight years she has adjusted hurricane claims, tornadoes, and other various natural (and man-made) disasters. She started as an adjuster and is now paid $520 per day to provide services as a claims manager.

Kerri's position requires her to adjust claims for State Farm, and State Farm has been the only company that she has worked for. Her position, in all material respects, is identical to Cori's. Neither individual has any criminal background. Neither has financial skeletons in their closet. They are earnest and sincere relators who are blowing the whistle on practices they see as false and fraudulent.

SPECIFIC INSTANCES OF FRAUD

Personnel Involved In CAT Team Katrina

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The following State Farm personnel were involved with adjusting Katrina loss claims. In the table below the name and position are set out, as well as the conduct chargeable to them and the content of any information they possess. Where so noted, the individual will have participated in that conduct.

Name	Position	Conduct/Knowledge
Alexis "Lecky" King	Co-CAT Team Coordinator	King is the State Farm Flood Insurance "guru" and she directed that adjusting be done to conform to the decision she made that claims would be denied as wind damage claims. King holds considerable knowledge with regard to information about State Farm's conduct, and has been heard to remark that for a payment of $2,000,000 she would be willing to speak with attorneys representing Katrina victims.
Richard "Rick" Moore	Co-CAT Team Coordinator	With King, Moore was the person in Gulfport claims office who oversaw the "water" portion of the claims adjustments relating to floods. He and King were involved in making the decision early on to get blanket engineering reports, and in later canceling that mandate. When it was necessary to "correct" these engineering reports, only he and King had access to the original engineering reports that were adverse to the final reports.
John Dagenhart	CAT Team Coordinator	In charge of the Biloxi (wind) office and also a CAT team coordinator. Engaged in the same conduct as Moore and King, although likely he engaged in less of this conduct since more of the claims in the Biloxi office dealt with wind rather than flood.
David Randel	Section Manager	As section manager for the CAT teams, Randall was the principal supervisor over Katrina claims. He was King, Moore and Dagenhart's boss and direct supervisor. He oversaw the adjusting of claims. He is one of only 12 – 15 section managers at State Farm.
David Haddock	Trainer	State Farm employee responsible for overseeing adjusters. His name appears on the fax letters sent to engineering firms recalling or canceling their engineering reports and directing them to

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		"send their investigation materials" to State Farm.
Lisa Wachter	Trainer	State Farm employee responsible for overseeing adjusters. Similar knowledge to David Haddock.
Ryan Murphy	Claims Manager	Oversaw claims at Gulfport. Currently assigned to mediation teams.
Anna Eaton	Claims Adjuster	Finacee of Murphy. Murphy told her that the original engineering reports were scanned to the CSR program and then shredded
Mark Drain	Team Manager	Assigned to the "high profile" claims where State Farm wanted to preserve relationships or prevent fallout.
Gary Clatterbuck	Team Manager (no longer in MS. Went back to TX after December)	Assigned to claims on Katrina, was outraged at how the process was handled, particularly at the claims and engineering report process. "Everything about this is just wrong!"
Mike Myers	State Farm Agent	Apparently had no flood insurance but backdated not only his own but also several other insurance applications to include flood coverage.
Felicia Palmer	State Farm Agent	Apparently knows about Myers' backdating.
Brenda Emmons	State Farm Aduster	Brenda has widely been thought to be the "mole" inside State Farm because Katrina has affected her significantly. She has appeared to suffer depression as a result of her work on Katrina, and is believed to be very disturbed by what she was required to do.

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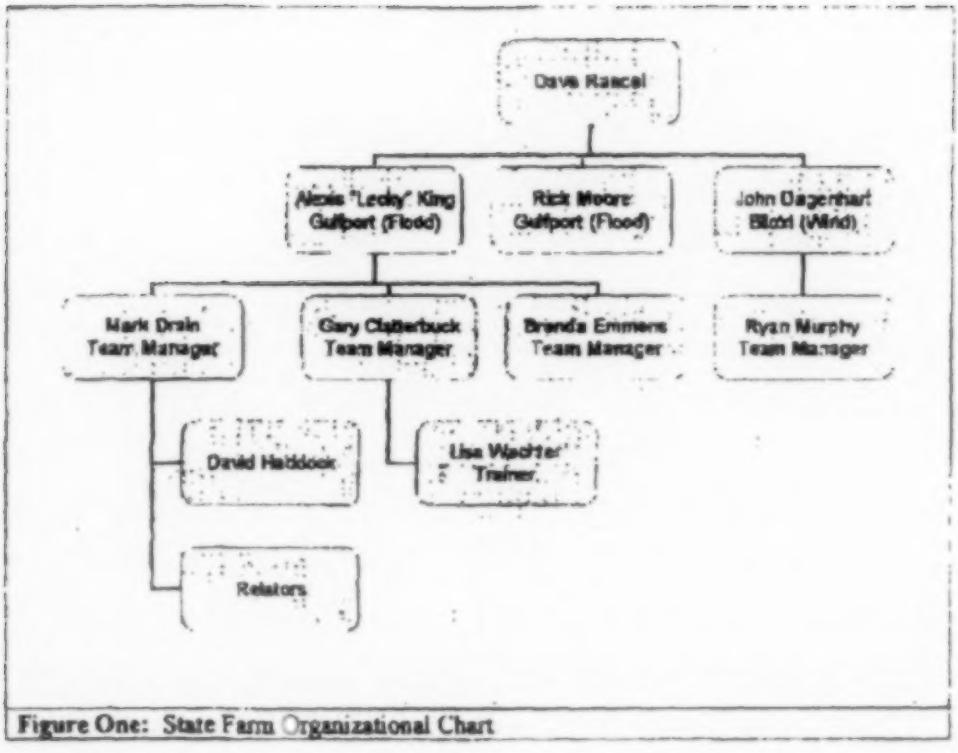

Figure One: State Farm Organizational Chart

How CAT Teams Worked In Prior Disasters

Catastrophe team adjusting is and always has been an "adjuster driven" process whereby adjusters are sent into the field and investigate and pay claims based on the damage they find. The only time additional assistance in the form of experts or engineers are engaged in most catastrophe claims is when there is extrinsic evidence of fraud.[7]

[7] For example, in one case adjusters thought that the "hail damage" they saw on a roof looked a lot more like marks made by a hammer and called in an engineer to investigate. Use of engineers prior to 2005 was rare.

SMPD1-000409

Beginning with Hurricane Ivan in 2004 State Farm began to use engineers, but the use of engineers was random and State Farm always went by whatever the engineer said. If the report said damage was caused by wind, the policy was paid 100% based on the engineer's report. Even if State Farm disagreed with its expert's reports, it stood behind the expert and paid the claim based on what the expert said. As Cori Rigsby said, the purpose of the CAT team was to "rush in, pay a lot of claims, and leave." State Farm did not follow their prior policies or their past experiences in adjusting Katrina claims

How CAT Teams Worked in Katrina

Initial bad decisions about how to handle claims might well be blamed on the scope of the disaster. The number of claims was enormous, and the response by State Farm required them to bring in adjusters and train new adjusters for the process of claims under State Farm's policies. At the outset, however, State Farm made a decision that would quickly become unmanageable for it. It made a decision to do a forensic engineering analysis of three kinds of claims.

"Slabs" are insurance slang for complete losses of structures and contents that involve nothing on the ground but a cleanly-stripped foundation. "Popsicle Sticks" is slang for structures where only the pilings or a few beams are left standing. "Cabanas" is the industry colloquialism for houses where the roof and perhaps some interior walls remain, but the structure itself is a total loss. Almost immediately after being notified and disapatched to the Katrina disaster on September 2, 2005, Kerri and Cori were told that they were to order an engineering report on every loss that was a "Slab," "Popsicle Stick" or "Cabana."

SMPD1-000410

There was one exception to this requirement. If the policy-holder had flood insurance, and if the policy-holder was willing to accept this payment as the payment in-full for their losses, State Farm would offer to pay that amount without a site inspection and without an engineering report.

The Flaw In the Program

The immediate flaw in the "blanket engineering report" program became apparent within hours of the blanket engineering requests in Katrina. There was no coordination of how engineers (or even which firms) were assigned to claims.

At the outset, State Farm got a report from Haag Engineering that concluded that the majority of the damage in Mississippi was due to flood, and not to wind or rain. This conclusion was contained in a report, a copy of which is attached as an exhibit to this disclosure. That document became State Farm's (and on information and belief, Nationwide, Allstate and USAA's) bible when denying coverage under hurricane insurance on the basis of damage caused by flooding. Even though information copies were provided to the other consulting engineers, those engineers did not always adhere to the party line.

While Jade Engineering might take one house on a block, Haag might take another. Dreux Seghers might get the last house on the street. And while each of the engineering firms was provided with an analysis done by Haag[8], individual engineers approached claims differently, relied on different information in reaching their results,

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[8] This "analysis" became State Farm's bible and basis for denying the majority of the hurricane claims because it found that the majority of the damage was from flood, not from wind. This in spite of the fact that hurricane force winds preceded storm surge by at least five hours.

and frequently (in the case of honest firms like Dreux Seghers) reached the conclusion that the majority of the damage was caused not by flood but by wind. See Figure 1, below.

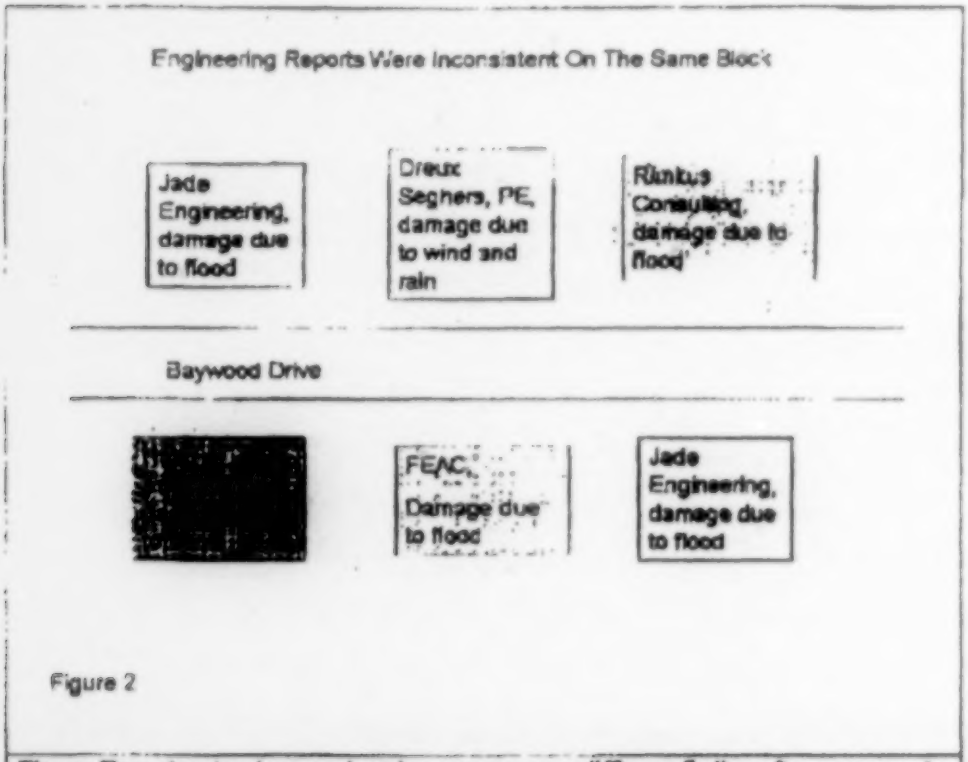

Figure Two showing how engineering reports gave different findings for cause on the same street. While some firms would change their reports when pressured, others, like Dreux Seghers, PE, refused, resulting in inconsistent determinations.

Alexis "Lecky" King from State Farm reached the conclusion that reports that differed substantially from those of Haag were to be considered suspect and were to be re-written or revised by the consulting engineer. She held bills and refused to pay them. While State Farm had routinely released engineering reports in the past to its policy

SMPD1-000412

holders, King now gave direction that the reports were not to be shared.[9] As noted earlier, scores of engineering reports were sent back to the engineers in order to get them re-written to coincide with State Farm's (and Lecky King's) view that these should all be flood damage claims.[10]

But the real flaw in the multiple engineer scenario manifested itself in case of Anna Vela. Vela is a Biloxi resident who lived on Baywood Drive and whose loss was first assigned to Dreux Seghers for analysis. The engineering analysis determined that the primary loss was due to wind damage. This was provided to Mark Drain at State Farm who passed it along to King for review. King told Drain that the engineer was "a moron" and directed him to "tell him to revise this." Shortly thereafter King left for a short time, and Drain had to make the determination, as a team manager, whether to pay the claim on the basis of the engineering report, or get a new report. He elected to pay the claim. State Farm paid out policy limits on the Vela claim.

Yet, other houses on the same street were determined by Haag, FAEC, and Exponent to be "flood" related, and those claims were paid only under a flood policy or denied.

In November the flaw was seen as what it was, a tool for inconsistent adjusting, and State Farm trainers David Haddock and Lisa Wachter directed adjusters not to get any further engineering reports on Slabs or Popsicle-Sticks. In addition, where

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[9] This was to prevent the situation where policy holders would get the initial report reflecting wind damage and rely on that before the "revised" report could be sent.

[10] Relators have memory of seeing a stack of engineering reports on Lecky King's desk that was more than one foot tall. These reports concluded that there was not flood damage, and they needed to be dealt with by King, who would instruct adjusters not to pay the claim until a new report would be issued by the engineer. That is why King placed the note in the McIntosh file to the effect that the prior engineering report would not be paid for, and would not be discussed.

SMPD1-000413

engineering reports had been requested, they sent a fax to the engineers directing them to cancel the request, send along the investigation materials and not write a report. If a report had already been written, they were directed to send it, as well. A copy of this facsimile is found at Exhibit C.

The Engineering Reports

As painstakingly documented above, engineering reports were solicited by blanket authorization, even though these reports would generate invoices from the engineers to the tune of $1,500 to $3,000.[11] State Farm apparently looked at it from the standpoint of preferring to pay $1,500 to an engineer instead of paying $200,000 to an insured. Attached as Exhibit A is the engineering roster from State Farm Insurance that shows the name of the engineer, the date the claim was assigned, the claim number, the address, the inspection date, and the date a report was received by State Farm.[12] As can be seen by the report, certain engineers had a very high percentage of cancelled reports.[13] Seghers was hired on only 79 claims. 32 of those were cancelled or listed as never received or "peer reviewed." Seghers, who refused to play ball with State Farm, had 40% of its assignments cancelled. Similarly Engineering Design and Testing, a firm that refused to play ball with State Farm, received only 39 assignments and had 10 cancelled

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[11] This was a win-win situation for State Farm. The engineering reports, where they concluded that the damage was caused by flood, saved State Farm thousands. Where the policy holder was lucky (or unlucky) enough to have flood coverage, the costs of the engineering report became a part of the flood claim adjustment costs and were passed along to the FIA through the NFIP's mechanism for paying adjusters.

[12] In many cases the "date received" is inaccurate. Some of the reports were received, but not acknowledged. Others were cancelled.

[13] Relators have heard that Dicus Seghers, PE, who is not named as a defendant in this action, was approached by State Farm to change reports. Seghers stood by his reports early on where he concluded the source of damage was wind. Seghers did not receive an assignment from State Farm after November 2005. Those assignments that he did receive in October and November were cancelled at a significantly higher rate than other engineering firms.

SMPD1-000414

(25%). Exponent Failure Analysis, a firm that did engage in re-writing of reports at State Farm, had 214 assignments and only 17% of those were cancelled by State Farm. Similarly low cancellation rates will be present for the other engineering defendants in this case. See Exhibit A.

Lecky King, Rick Moore, or their designees and employees directed the engineering firms to change any report where the cause of the damage was not flood. At one point relators were in a meeting with King who was reviewing engineering reports. She tossed one of the reports on to the center of the conference table and announced that the engineer must have known, or been related to, one of the persons on the street because the report did not conclude that the cause was flood. As such she said that this report would need to be re-written.

King would pull the reports that did not match her predetermined expectations of flood damage and would direct that they be revised. At one time the pile of reports that required revision was at least one foot tall. King and Moore sent an email (See Exhibit E.) that indicated to everyone that the original engineering reports were to be kept under lock and key, and that only she and Rick Moore had access to these reports.

Once the reports were re-written, the original reports were segregated and Relators believe that all original reports that were rewritten were or are in the process of being destroyed by State Farm at the direction of King and Moore.

State Farm, however, has an accounting system that tracks the reports and the dates assigned. The date an invoice was submitted is tracked along with the date paid. Since invoices were not paid until reports were re-written, a delay of more than 4 or five

days between the invoice and the payment would be indicative of a claim that was re-written to conform to the flood expectations.

Relators believe that Seghers, among others, would talk frankly with federal investigators about how he was essentially removed from assignments because he refused to re-write reports, as he has confessed this event to family members of the Relators.

The Adjustment Expenses

One of the many problems with the way the Flood Insurance Program is laid out is the requirement under the NFIP that "Write Your Own" ("WYO") insurance companies adjust the claims. Because the claims adjustment expenses ($1,500 to $3,000 for engineering reports and as much as $9,000 for individual independent adjusters) are passed along to FEMA and the Flood Insurance Administrator (FIA) under the regulations governing the NFIP, the WYO companies have a double incentive to misallocate a loss to flood insurance. First, the responsibility to pay the claim is borne by the federal government. This reduces the burden on the defendant by reducing the amount of reserves required to pay the claims. Secondly, the adjustment expenses are allocated to the flood claim. State Farm and the other defendants are not only allowed to push off the fixed costs of the claim, but also are able to push off the adjustment expenses.

Because the adjustment expenses are borne by FEMA under the program, State Farm gave direction initially to the adjusters that if they calculated a flood insurance claim and did not "hit the limits" that they were to recalculate the claim until such time as they did "hit the limits." This is not simply a desire to be generous with someone else's

money, nor is it a desire to "be fair" to the policy holder. Instead, it is a concerted effort to maximize profits by maximizing the amount of the flood insurance claim. If minimal losses are attributable to a flood insurance policy (for example, a $40,000 payment under flood insurance), the payment to State Farm for adjusting expenses is much smaller ($750). If coverage is maximized ($250,000 for structure and $100,000 for contents) then the adjusting costs charged by the independent adjusting firms ($7,000) are added to the costs of engineering reports ($1,500 to $3,000) and these costs, with some addition for overhead and other adjusting costs borne by State Farm, are all passed along to FEMA and the FIA. State Farm and other defendants make additional money by not only avoiding a charge against their reserves, but also by having all their claims adjustment expenses paid for by the federal government.

State Farm used a computer program called "XACT TOTAL" to calculate the flood claims and hit policy limits. The program permitted the agent to put in the square footage and amenities to "rebuild" the home. Adjusters were instructed to "hit the limits and if you haven't hit the limits on flood, go back and do it again until you do." The program was first developed for "slabs" but was later used for "cabanas" and other structures without total losses. One of the relators witnessed five houses where only four feet of mud was in the elevated house. There was no damage to roof, siding, and other structural elements. The house was submitted as a total flood loss (to hit the limits) using the XACT TOTAL software. State Farm continued this program until "Flood Calculator" was developed.

SMPD1-000417

The Backdating of Policies

State Farm Agent Mike Myers was quoted by several individuals in the Biloxi area in the hours immediately after the storm as saying he did not have flood insurance. Within days this lack of insurance was transformed into a windfall by virtue of a backdated policy. Although relators do not have direct knowledge of how and when Myers was able to work the system to backdate flood coverage, it is known that Myers and several of his key clients and friends were able to get flood coverage in the days immediately after the storm.

Felicia Palmer is another Mississippi-based State Farm agent who did not have flood insurance and who suffered a complete loss on her business structures. She was not paid through State Farm for her loss. Myers, however, was able to get paid, even though he had told people he did not have flood insurance. Palmer is reported to be very angry. Relators believe that she will discuss the backdating allegations with investigators.

Relators also believe that the only way this could have been accomplished by Myers is if Myers has friends or associates in the Underwriting department of State Farm because the backdating of paperwork should ordinarily have raised red flags at State Farm and set off internal controls meant to catch exactly this type of situation.

Grant Money

As a response to the devastation of the Gulf Coast, Congress passed and the president signed in late 2005 a flood grant program. The program requires that a person have homeowners insurance, live in an area that is not a flood zone, and have structure losses due to a flood during Katrina.

The program will pay up to $150,000 (reduced by amounts already paid from other sources) for damages to structures during Katrina.

During the course of its post-Katrina adjusting, State Farm has encouraged homeowners to apply for these grants, and has facilitated such action. In a recent case the homeowner was entitled to payments under both contents and structure coverage. In mediation, State Farm transferred funds from its "A" (structure) coverage to its "C" (contents) coverage so that the homeowner would be entitled to a larger amount of grant money. The homeowner would not have been entitled to the contents value ordinarily. The homeowner was entitled to more money under the structural coverage. By transferring money from the structure to the contents, State Farm colluded with its insured to allow the insured to submit a larger amount for the grant.

WHAT EVIDENCE EXISTS OF THE FRAUDULENT CONDUCT

Relators' Declarations

Relators have examined the complaint and have attested to the fact that the information in the complaint is true and accurate to the best of their information and belief. The information in this disclosure and in the Complaint is what the Relators would testify to if placed under oath.

Relators have a great deal of information, and have kept a journal of questionable happenings at State Farm since the inception of the Katrina event. They have a wealth of knowledge about the persons involved, and would be a good source for investigators to speak with about the underlying fraud.

Documents

Many of the documents involved in this fraud (especially the original engineering reports) have either been shredded or are going to be shredded in days absent quick and dispositive action from the United States Attorney's office.

There are locked filing cabinets in the offices of King and Moore which contain information that establishes the fraud. Individual defendants and, where applicable, witnesses (Seghers, for example) will likely testify to the "rewrite your report to get paid" scam that State Farm enforced against the engineers.

Original invoices generated by the billing and accounting systems of the individual engineering defendants will also support the fact that multiple reports were written. There are likely computer records that show that two reports were written. Individual employees of these engineering firms are also likely to be willing to testify to the pressure brought to bear on them to change engineering reports.

Computer Evidence

State Farm maintains distributed servers in Jacksonville, Florida and Birmingham, Alabama. Disaster servers are, on information and belief, located in Bloomington, IN, for backup purposes.

Servers in Birmingham are dedicated to adjusting claims in the Mississippi and Alabama areas, while Louisiana and Texas claims are adjusted out of Austin, TX, where yet another server exists.

SMPD1-C00420

Documents, photographs, claims logs, adjuster logs, computations and other data associated with the claim are maintained in State Farm's *CSR Reflections* software. CSR is a DOS-based computer program that State Farm still uses to track claims. Information about multiple reports and claims are likely documented in the hundreds of adjuster logs maintained on *CSR Reflections*. Search warrants or subpoenas should be directed to both the CSR system as well as the Outlook email system maintained and used with State Farm.

Relators have produced some emails, including those that are relevant to the fraud issues here. Additional emails between King and her superiors, as well as other State Farm management personnel, are likely to be dispositive with respect to the knowledge of superiors at State Farm regarding the scope of the fraud.

FEMA Flood Map

One of the more dispositive pieces of information in this case is the flood map put out by FEMA, the agency responsible for managing the Flood Insurance Program. Copies of that map show very small areas that were actually flooded during Katrina. In spite of this determination by the parent agency of the Flood Insurance Administrator, Katrina victims were denied coverage and were paid on flood insurance claims over a much wider area than FEMA determined to be flooded.

SMPD1-000421

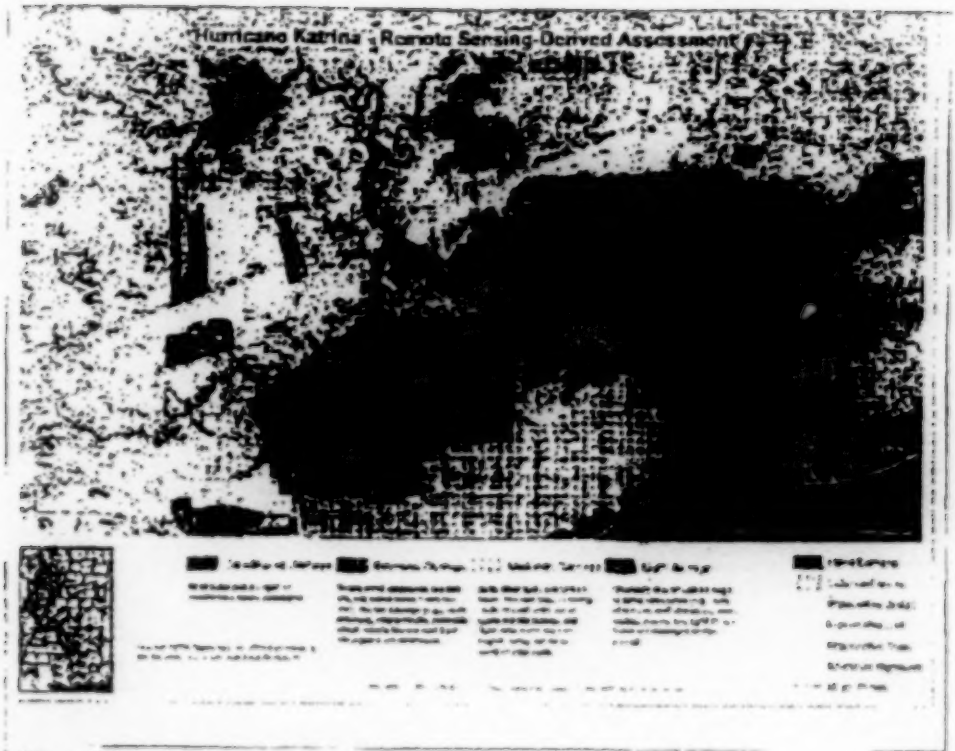

Figure Three: The FEMA flood map

SMFD1-000422

DOCUMENTS AND EVIDENTIARY MATERIAL

The following documents and pieces of evidence are submitted with this disclosure.

Exhibit	Description
A	Engineers Roster – CAT PI
B	Haag Report
C	Craig Balius Claim Forms
D	Balius Flood Claim Worksheet
E	Emails from State Farm regarding Engineering Reports
F	Other Emails from State Farm
G	Relators Declarations

Respectfully submitted,

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SMPD1-000423

CERTIFICATE OF SERVICE

The undersigned certifies that on this 24th day of April, 2006, a copy of the foregoing Complaint and the required disclosure statement was served on the individuals below by first class mail, certified, return receipt requested to Dunn O. Lampton, US Attorney's Office, 188 E. Capitol St., Suite 500, Jackson, MS, 39201, and by placing the same in the United States Mail, first class postage affixed, certified, return receipt requested, and addressed to Alberto Gonzales, Esq , at the address below.

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Washington, DC 20210

_____
Attorneys for Relators

SMPD1-000424

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

THOMAS C. AND PAMELA McINTOSH,
Plaintiffs,

VERSUS CIVIL ACTION NO: 1:06-cv-1080-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY; AND FORENSIC ANALYSIS & ENGINEERING CORP.,
Defendants.

VOLUME II
VIDEOTAPED DEPOSITION OF CORI RIGSBY

Taken at the Scruggs Law Firm, 4836 Main Street, Moss Point, Mississippi, on Monday, November 19, 2007, beginning at 9:11 a.m.

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ALSO PRESENT:

JANA RENFROE

VIDEO TECHNICIAN:

JEFF CONNER, CONNER REPORTING

Q. Mr. Deganhart had a discussion?
A. Yes
Q. Okay. And was that the last day that you served as an adjuster for State Farm?
A. Well, yes. Dave Randel had called Don Goodin with Renfroe and told him that Kerri and I were not allowed back in the building
Q. And do you know when that call occurred?
A. I believe it was that day because Don Goodin called me and asked me why we weren't allowed back in the building.
Q. Okay. I gather from previous testimony that you were employed as a consultant by the Scruggs Katrina Group effective July 2006?
A. Yes.
Q. Okay. And you remain so employed today?
A. Yes.
Q. Okay. There were some media interviews that you talked about previously. And I saw one interview that was referred to was with the Mississippi Sun Herald, I believe, a newspaper.
A Okay.
Q Are you familiar with that?
A. I get the Sun Herald.
Q. Okay. Do you remember giving them an

interview?

A I do, last -- in August of '06.

Q In August of '06?

A. I gave them an interview

Q Okay. And that is the only interview you've ever given to them?

A. Yes. That's the only one I remember giving them.

Q. Okay. And you also gave an interview to the Associated Press?

A. Yes.

Q. And do you remember when that was?

A. Yes. It was right at the same -- same time as Anita Lee's interview, within a day.

Q. I'm sorry?

A. Within a day or so of Anita Lee, the Sun Herald interview.

Q. Oh, okay.

A. I'm sorry.

Q. Anita Lee was the reporter?

A. Anita Lee was the Sun Herald, yes

Q. Okay.

A. It happened three days -- I interviewed with Brian Ross. The next day, I believe Michael with AP, and the next day, Anita with the Sun

Herald It was back to back.

Q Okay And Brian Ross was the reporter for 20/20?

A. Yes, ma'am.

Q. Okay. Now, you had testified earlier that you had the Brian Ross interview about 10 days before the 20/20 episode aired And I believe the episode was on August 25th.

A. 25th.

Q. Right. And so 10 days before would be about August 15th?

A. Right.

Q. And that's still your recollection, that you would have given the interview about 10 days before the show aired?

A 20/20, I know was about 10 days before the show aired. Now, the AP and the Sun Herald, those might have been -- when I said "back to back," actually a day or two before the show aired instead of being interviewed right behind that I need to change that. I misspoke.

Q. Okay Any other interviews that you remember?

A. There was an interview with Glamour magazine

CERTIFICATE OF COURT REPORTER

I, F. DUSTY BURDINE, Court Reporter and Notary Public, in and for the County of Harrison, State of Mississippi, hereby certify that the foregoing pages, and including this page, contain a true and correct transcript of the testimony of the witness, as taken by me at the time and place heretofore stated, and later reduced to typewritten form by computer-aided transcription under my supervision, to the best of my skill and ability.

I further certify that I placed the witness under oath to truthfully answer all questions in this matter under the authority vested in me by the State of Mississippi.

I further certify that I am not in the employ of, or related to, any counsel or party in this matter, and have no interest, monetary or otherwise, in the final outcome of the proceedings.

Witness my signature and seal, this the _____ day of _____, 2007.

_____

F Dusty Burdine, CSR #1171

My Commission Expires 4/20/09

STORY SLUG: 20/20

PRODUCER: ..... ABC NEWS

INTERVIEWERS: ..... DEBORAH ROBERTS, JOHN STOSSEL

INTERVIEWEES:

ANNOUNCER, CARRIE BERGERON, PEGGY BERGERON, TIM BERGERON, BOB BROWN, SHARAD DESAI, SINDOOR DESAI, SUJEET DESAI, WAYNE DRINKWATER, ATTORNEY LYNN GOLD-BIKIN, PEGGY HORVATH, BILL HUBNER, BARBARA LAROSE, NORMAN LIPPITT, WESLEY MCFARLAND, DAVID MENDELSON, MINH NGUYEN, ENGINEER JAMES OVERSTREET, HINDU PREACHER, PRIEST, PROSECUTOR, RELATIVE, CORI RIGSBY, KERRI RIGSBY, BRIAN ROSS, CHRISTINA SCHILLING, SCIENTIST, DICKIE SCRUGGS, SPEAKER, ELIZABETH VARGAS, COMMERCIAL VOICEOVER

TAPES: 1 (1)

INTERVIEW DATE: 08/25/2006

TRANSCRIPT PRINT DATE: ..... AUGUST 30, 2006

JOB TRACKING ID: 060825

PLAINTIFF'S EXHIBIT 6

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TIMECODE: 22:00:02 - 22:56:29 ..... INTERVIEW DATE: AUGUST 25, 2006

INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN, BARBARA LAROSE, BILL HUBNER, BOB BROWN, BRIAN ROSS, CARRIE BERGERON, CHRISTINA SCHILLING, COMMERCIAL VOICEOVER, CORI RIGSBY, DAVID MENDELSON, DEBORAH ROBERTS, DICKIE SCRUGGS, ELIZABETH VARGAS, ENGINEER JAMES OVERSTREET, HINDU PREACHER, JOHN STOSSEL, KERRI RIGSBY, MINH NGUYEN, NORMAN LIPPITT, PEGGY BERGERON, PEGGY HORVATH, PRIEST, PROSECUTOR, RELATIVE, SCIENTIST, SHARAD DESAI, SINDOOR DESAI, SPEAKER, SUJEET DESAI, TIM BERGERON, WAYNE DRINKWATER, WESLEY MCFARLAND

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"SMUT BOX"

SOME POSSIBLE 'NON G-RATED' WORDS DETECTED. OTHERS MAY ALSO EXIST.

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SPEAKING *15*
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B

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SPEAKING 12
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INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT).

TAPE NUMBER: 1

[SHOW: NMG]

[SLUG: INTRODUCTION]

[AIRDTE: 08/25/06]

[AIRTME: 22:00 - 23:00]

[ANCH: JOHN STOSSEL, DEBORAH ROBERTS]

[ANCHLOC: NEW YORK, NY USA]

[STORY: 20/20]

[CORR:]

[CORLOC:]

[TOPIC:]

[CONTENT: BLOWING IN THE WIND, A WOMAN SCORNED, LOVE CONQUERS ALL]

[1]22:00:02 ELIZABETH VARGAS (ABC NEWS)
Good evening, I'm Elizabeth Vargas.

[1]22:00:02 JOHN STOSSEL (ABC NEWS)
And I'm John Stossel.

[1]22:00:02 ELIZABETH VARGAS (ABC NEWS)
[And this is "20/20."

[1]22:00:05 ANNOUNCER
The hurricane destroyed their home. Then State Farm Insurance left them high and dry.

[1]22:00:11 WESLEY MCFARLAND (STATE FARM POLICYHOLDER)
She cried a little bit and she said well what are we going to do?

[1]22:00:15 ANNOUNCER
But should their claim have been paid?

[1]22:00:17 KERRI RIGSBY (FORMER STATE FARM EMPLOYEE)
A lot of people were cheated.

[1]22:00:19 BRIAN ROSS (ABC NEWS)
And this is more than just a simple mistake.

INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT)..

[1]22:00:21 KERRI RIGSBY (FORMER STATE FARM EMPLOYEE)
This was fraud, no question.

[GRAPHICS: BLOWING IN THE WIND]

[1]22:00:23 ANNOUNCER
Did State Farm deliberately leave American families blowing in the wind? And she was fresh out of college. He was a middle-aged millionaire. For 17 years, they were a couple, until one day...

[1]22:00:39 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
There was a fax in my machine from Bill, terminating me.

[1]22:00:44 ANNOUNCER
Dumped without a dime. So she decided to make him pay.

[1]22:00:49 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Some people look at you as a gold digger.

[GRAPHICS: A WOMAN SCORNED]

[1]22:00:51 ANNOUNCER
Would the jury feel the pain of a woman scorned? Then, a young girl, striving to overcome limitations.

[1]22:01:02 CARRIE BERGERON (SUJEET'S WIFE)
I had a hole in my heart, jaundice, a big tongue, and a wobbly head.

[1]22:01:07 ANNOUNCER
Finds the man who makes her feel whole.

[1]22:01:09 SUJEET DESAI (CARRIE'S HUSBAND)
I call her my care bear.

[1]22:01:12 ANNOUNCER
Now two families must decide whether to let their children have the life they dream of.

[1]22:01:17 SHARAD DESAI (SUJEET'S FATHER)
Wedding? How could they get married? It's not possible.

[1]22:01:20 ANNOUNCER
Watch what happens when love conquers all.

[GRAPHICS: LOVE CONQUERS ALL]

[GRAPHICS: 20/20]

[EOF999]

[STORY: BLOWING IN THE WIND]

[STORY2: INSURANCE FRAUD]

[CORR: BRIAN ROSS]

[CORLOC: NEW YORK, NY USA]

[TOPIC:]

[CONTENT: HURRICANE KATRINA, STATE FARM INSURANCE, MISSISSIPPI, KERRI RIGSBY, INSURANCE ADJUSTER, WESLEY MCFARLAND, FEDERAL FLOOD INSURANCE PROGRAM]

[1]22:01:28 JOHN STOSSEL (ABC NEWS)
(OC) Good evening and welcome to "20/20." Deborah Roberts joins me because Elizabeth Vargas is on maternity leave. You've seen the commercials, like a good neighbor, State Farm is there. This giant insurance company spends millions to convince us that if something bad happens, like a storm that destroys your home, State Farm will be there to pay for rebuilding. But in the aftermath of last year's devastating hurricane, many people claim this so-called good neighbor acted quite badly.

[1]22:01:54 DEBORAH ROBERTS (ABC NEWS)
(OC) That's right, John. Tonight, you're going to hear from two former insurance adjusters who say that company systematically cheated many of its own customers to avoid paying to rebuild the homes of people who lost everything.

[GRAPHICS: BRIAN ROSS INVESTIGATES]

[1]22:02:08 DEBORAH ROBERTS (ABC NEWS)
(VO) Here's chief investigator correspondent Brian Ross with their claims of a good neighbor gone bad.

[1]22:02:16 CORI RIGSBY (FORMER STATE FARM EMPLOYEE)
Katrina was devastating. But so was State Farm.

[1]22:02:22 KERRI RIGSBY (FORMER STATE FARM EMPLOYEE)
A lot of people were cheated, a lot of people were cheated.

[1]22:02:26 CORI RIGSBY (FORMER STATE FARM EMPLOYEE)
They wanted people to know that we had arrived.

[1]22:02:27 BRIAN ROSS (ABC NEWS)
(VO) And these two sisters say they saw the cheating firsthand. As independent adjusters working exclusively for State Farm Insurance.

[1]22:02:37 BRIAN ROSS (ABC NEWS)
(OC) For all the world, you were State Farm.

[1]22:02:39 CORI RIGSBY (FORMER STATE FARM EMPLOYEE)
We are State Farm.

[1]22:02:40 BRIAN ROSS (ABC NEWS)
(VO) Tonight, Cori Rigsby and her younger sister, Kerri are speaking publicly for the first time about what they say went on inside the country's largest insurance company.

INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT).

[1]22:02:50 CORI RIGSBY (FORMER STATE FARM EMPLOYEE)
Until this storm, we were very proud to work with State Farm. We did believe they always did the right thing. We'd never seen any kind of activity like this.

[1]22:02:58 BRIAN ROSS (ABC NEWS)
(VO) What they say they saw at State Farm's Katrina offices in Mississippi was supervisors demanding that damage reports be buried, replaced or changed so that insurance claims would not have to be paid.

[1]22:03:10 KERRI RIGSBY (FORMER STATE FARM EMPLOYEE)
We realized this is widespread.

[1]22:03:13 BRIAN ROSS (ABC NEWS)
(VO) This damage report, the sisters say, would have backed up a policyholder's claim, but it was hidden in a special file with instructions, "Do not pay bill. Do not discuss."

[1]22:03:23 CORI RIGSBY (FORMER STATE FARM EMPLOYEE)
I consider this to be a smoking gun.

[1]22:03:26 BRIAN ROSS (ABC NEWS)
(VO) At one point, they even took pictures of a special shredding truck. State Farm says it shreds documents to protect policyholder privacy. The sisters believe it was done to destroy key documents.

[1]22:03:38 KERRI RIGSBY (FORMER STATE FARM EMPLOYEE)
We felt, I think, shocked, was at first. Because State Farm to put themselves out there for fraudulent activity like this is huge knowing that they could get caught.

[1]22:03:48 BRIAN ROSS (ABC NEWS)
(VO) The Rigsby sisters' allegations, if proven, would support the suspicions of thousands of homeowners along the Mississippi Gulf Coast who have not been able to get the insurance money to rebuild their homes. State Farm covers almost a third of the homeowners in this area and in lawsuits, many accuse it and other insurance companies of wrongly denying or low-balling their claims.

[1]22:04:09 WESLEY MCFARLAND (STATE FARM POLICYHOLDER)
It's cruel and it's fraud. And it's every damn thing bad I can think about it. This was the front porch, these statues.

[1]22:04:20 BRIAN ROSS (ABC NEWS)
(VO) Retired doctor, Wesley McFarland says he was outraged to be told by the State Farm adjuster he would collect nothing for the total loss of his $400,000 home where his family had lived for decades. Devastating news for him and especially for his wife, Rosemary.

[1]22:04:37 WESLEY MCFARLAND (STATE FARM POLICYHOLDER)
And she just sat there and she cried a little bit and she said well, what are we gonna do?

[1]22:04:48 BRIAN ROSS (ABC NEWS)
(VO) The Nguyens, refugees from Vietnam who scrimped and saved to make a home for their three children got the same devastating news from State Farm.

[1]22:04:56 MINH NGUYEN (MISSISSIPPI GULF COAST RESIDENT)
When I was told they denied my claim, I came out here and I cried. I sat on this one right here and I cried until 3:30 in the morning.

INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT)...

[1]22:05:05 BRIAN ROSS (ABC NEWS)
(VO) Wind damage is supposed to be covered under State Farm policies. And during Katrina there were gusts up to 145 miles an hour. But water damage is not covered. The Rigsby sisters say what they discovered was that State Farm did whatever it could to find the damage was caused by water to avoid having to pay.

[1]22:05:23 BRIAN ROSS (ABC NEWS)
(OC) So as long as it's water damage...

[1]22:05:25 CORI RIGSBY (FORMER STATE FARM EMPLOYEE)
As long as it's water damage.

[1]22:05:25 BRIAN ROSS (ABC NEWS)
(OC) ...they're very happy.

[1]22:05:26 CORI RIGSBY (FORMER STATE FARM EMPLOYEE)
They're very happy.

[1]22:05:27 BRIAN ROSS (ABC NEWS)
(OC) But if it's wind damage, then everything changes. Then they're on the hook.

[1]22:05:30 CORI RIGSBY (FORMER STATE FARM EMPLOYEE)
Exactly.

[1]22:05:31 BRIAN ROSS (ABC NEWS)
(VO) The sisters say they saw a senior State Farm coordinator go to great lengths to pressure outside engineers to prepare reports concluding that damage was caused by water, not wind.

[1]22:05:42 CORI RIGSBY (FORMER STATE FARM EMPLOYEE)
And she pulled out an engineer report and she was flipping through it, can you believe this engineer said wind damage. "Call this company and tell them if they don't change their report, we're not paying their invoice."

[1]22:05:55 BRIAN ROSS (ABC NEWS)
(OC) So, you heard that?

[1]22:05:56 CORI RIGSBY (FORMER STATE FARM EMPLOYEE)
I was standing a foot from her.

[1]22:05:58 KERRI RIGSBY (FORMER STATE FARM EMPLOYEE)
And I believe she then followed up by saying look at all of these. And she had a stack of engineer reports...

[1]22:06:03 CORI RIGSBY (FORMER STATE FARM EMPLOYEE)
On her desk.

[1]22:06:04 KERRI RIGSBY (FORMER STATE FARM EMPLOYEE)
...on her desk and she said look at all these engineering reports that have to go back or have to be changed.

[1]22:06:11 BRIAN ROSS (ABC NEWS)
(VO) It took three engineering reports for State Farm to get one that concluded the wind's damage was caused by water. State Farm mistakenly sent her the first two, which both concluded wind damage was predominantly to blame.

[1]22:06:23 MINH NGUYEN (MISSISSIPPI GULF COAST RESIDENT)
They tried to cheat me. They tried to cheat me right here.

[1]22:06:27 BRIAN ROSS (ABC NEWS)
(VO) The Nguyens, now living in a trailer, have hired a lawyer to sue State Farm.

[GRAPHICS: CLIP FROM STATE FARM'S AD]

[1]22:06:33 COMMERCIAL VOICEOVER (FEMALE)
Whoever said calm comes after the storm probably had a State Farm agent.

[1]22:06:38 BRIAN ROSS (ABC NEWS)
(VO) In its commercials and slogans, State Farm has cultivated its image as the good neighbor.

[1]22:06:48 MINH NGUYEN (MISSISSIPPI GULF COAST RESIDENT)
They are not good neighbor and they're not our friend anymore. They are not.

[1]22:06:53 BRIAN ROSS (ABC NEWS)
(VO) But the company says it has paid more than a billion dollars in claims in Mississippi and denies cheating anyone.

[1]22:06:59 WAYNE DRINKWATER (LAWYER)
We have not been cheating. Of course, we have not been cheating.

[1]22:07:02 BRIAN ROSS (ABC NEWS)
(VO) Instead of a company official, State Farm provided a Mississippi lawyer, Wayne Drinkwater, who told me in advance, he had not been given the facts to answer many of our questions.

[1]22:07:13 WAYNE DRINKWATER (LAWYER)
Brian, I don't know what facts are behind that. I don't know what happened. Brian, I don't know the facts behind this case, as I have told you.

[1]22:07:20 BRIAN ROSS (ABC NEWS)
(VO) But State Farm's lawyers strongly denied the company demanded changes in engineering reports to harm policyholders.

[1]22:07:26 BRIAN ROSS (ABC NEWS)
(OC) They have put no pressure on the firms.

[1]22:07:28 WAYNE DRINKWATER (LAWYER)
To come to any kind of preset result, we do not do that.

[1]22:07:32 BRIAN ROSS (ABC NEWS)
(OC) You don't promise more work or take away work.

[1]22:07:34 WAYNE DRINKWATER (LAWYER)
Based on results of reports, we don't do that.

[1]22:07:37 BRIAN ROSS (ABC NEWS)
(OC) Because we're told by people who work for you, that's exactly what happened right here.

[1]22:07:41 WAYNE DRINKWATER (LAWYER)
Brian, that is not State Farm's policy. And as far as I know, we have no evidence that that has occurred.

[1]22:07:47 BRIAN ROSS (ABC NEWS)
(VO) But it's not just the Rigsby sisters who say something funny has happened with the engineering reports. Certified engineer, James "Ken" Overstreet says his report, about the cause of the damage to the house that once stood here, was secretly changed.

[1]22:08:01 ENGINEER JAMES OVERSTREET (CONSULTANT)
And now, when I came out here, there were just snapped trees everywhere. You know, just from the basis of that there's a percentage of wind damage to the house.

[1]22:08:08 BRIAN ROSS (ABC NEWS)
(VO) His initial report concluded the damage was caused, in large part, by the wind. But Overstreet says someone, apparently at the engineering firm wrote a new report for State Farm three months later changing the conclusions from wind to water and then signed his name without his knowledge or approval.

[1]22:08:26 BRIAN ROSS (ABC NEWS)
(OC) Is that your signature?

[1]22:08:28 ENGINEER JAMES OVERSTREET (CONSULTANT)
No, mine's a little different than that.

[1]22:08:30 BRIAN ROSS (ABC NEWS)
(OC) You didn't sign this?

[1]22:08:31 ENGINEER JAMES OVERSTREET (CONSULTANT)
No.

[1]22:08:31 BRIAN ROSS (ABC NEWS)
(OC) Did you write the words saying that it was rising waters and wind?

[1]22:08:35 ENGINEER JAMES OVERSTREET (CONSULTANT)
No, mine send wind. A combination of wind.

[1]22:08:39 BRIAN ROSS (ABC NEWS)
(OC) So somebody else wrote this and put your name to it?

[1]22:08:41 ENGINEER JAMES OVERSTREET (CONSULTANT)
That's what it appears.

[1]22:08:43 BRIAN ROSS (ABC NEWS)
(VO) The engineering firm denies being pressured and says it stands by the final report. The Rigsby sisters have now downloaded thousands of documents from State Farm computer files and turned them

and their own detailed statements over to Federal and state prosecutors and to Mississippi's best-known trial lawyer.

[1]22:09:02 DICKIE SCRUGGS (MISSISSIPPI LAWYER)
My eyes popped out with altered engineering reports and the systematic way, which they were going about treating homeowners.

[1]22:09:11 BRIAN ROSS (ABC NEWS)
(VO) Dickie Scruggs, the lawyer who took on the big tobacco companies is now taking on State Farm. And the Rigsby sisters' allegations are a big part of his lawsuits.

[1]22:09:21 DICKIE SCRUGGS (MISSISSIPPI LAWYER)
The Rigsby sisters, they know where the bodies are buried. They know who is who in that organization. They know how it works.

[1]22:09:28 BRIAN ROSS (ABC NEWS)
(OC) And do you think the sisters have evidence that goes to criminal behavior?

[1]22:09:32 DICKIE SCRUGGS (MISSISSIPPI LAWYER)
If this isn't criminal, nothing is.

[1]22:09:35 BRIAN ROSS (ABC NEWS)
(VO) State Farm's lawyer maintained he had never heard of the Rigsby sisters.

[1]22:09:39 BRIAN ROSS (ABC NEWS)
(OC) Are you familiar with them?

[1]22:09:40 WAYNE DRINKWATER (LAWYER)
I am not.

[1]22:09:41 BRIAN ROSS (ABC NEWS)
(OC) Is State Farm familiar with them?

[1]22:09:42 WAYNE DRINKWATER (LAWYER)
I do not know the answer to that.

[1]22:09:44 BRIAN ROSS (ABC NEWS)
(VO) The Rigsby sisters say that is hard to believe. They say they told State Farm and its lawyers that they had given prosecutors thousands of company documents.

[1]22.09:54 KERRI RIGSBY (FORMER STATE FARM EMPLOYEE)
And we said, "Okay, we just want to let you know right up front, this is what we've done. We believe there has been fraudulent activity and we've turned today over for investigation." And then we were suspended at that point.

[1]22:10:06 BRIAN ROSS (ABC NEWS)
(VO) For the Rigsby sisters, turning against State Farm was a big decision after working for the company for more than eight years. But it was when they came across the case of Dr McFarland that they decided they had no choice but to go to authorities.

INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT).

[1]22:10:20 KERRI RIGSBY (FORMER STATE FARM EMPLOYEE)
And I had to be the one to tell them that we would not pay them any money for their home.

[1]22:10:25 BRIAN ROSS (ABC NEWS)
(OC) And you felt you were doing wrong?

[1]22:10:27 KERRI RIGSBY (FORMER STATE FARM EMPLOYEE)
Oh, absolutely. It was gut wrenching. It was horrible. It was wrong and we were hurting him and we didn't have to.

[1]22:10:38 BRIAN ROSS (ABC NEWS)
(VO) All Dr McFarland and his wife could do was collect from the limited Federal Flood Insurance Program. They were forced to live in a trailer just a few feet from where the family home once stood. Rosemary McFarland will never see their home rebuilt, she died this June.

[1]22:10:53 WESLEY MCFARLAND (STATE FARM POLICYHOLDER)
That contributed to Rosemary's death.

[1]22:10:56 BRIAN ROSS (ABC NEWS)
(OC) How so?

[1]22:10:57 WESLEY MCFARLAND (STATE FARM POLICYHOLDER)
Because she started going down. Everybody suffered almost a morbid depression. They are depressed.

[1]22:11:06 BRIAN ROSS (ABC NEWS)
(OC) You blame State Farm?

[1]22:11:08 WESLEY MCFARLAND (STATE FARM POLICYHOLDER)
Yeah. They haven't gotten any money from their insurance that they thought they had. Which would have put them back in to their lives.

[1]22:11:17 JOHN STOSSEL (ABC NEWS)
(OC) In response to our story, State Farm says it's launched an independent investigation into the allegations made by Cori and Kerri Rigsby. Brian Ross's report is just the first of an unprecedented weeklong ABC series called "Hurricane Katrina: Where Things Stand." It will continue all weekend and next week on ABC News programs. ABCNEWS.com will have constant coverage of the one-year anniversary of Hurricane Katrina. We'll be right back.

[1]22:11:46 ANNOUNCER
When "20/20" returns, she graduated from college. Then her real education began, running the business and sharing the bed of a very rich man. But when he wanted out, she says things got ugly.

[1]22:11:59 DEBORAH ROBERTS (ABC NEWS)
(OC) Did he call you a slut and a whore?

[1]22:12:01 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Oh, God

[1]22:12:03 ANNOUNCER
Would he pay for those words in court? Next.

[COMMERCIAL BREAK]

[EOF999]

[STORY: A WOMAN SCORNED]

[STORY2: PALIMONY PROTECTED]

[CORR: DEBORAH ROBERTS]

[CORLOC: NEW YORK, NY USA]

[TOPIC:]

[CONTENT: PEGGY HORVATH, BILL HUBNER]

[1]22:15:47 DEBORAH ROBERTS (ABC NEWS)
(OC) You know the expression, breaking up is so hard to do. And what the woman you're about to meet did may complicate it further for couples who live together without being married. Tonight, we revisit the story of a woman scorned. She fell for a richer, older man who, she says, made her all kinds of promises. But years later, she tells us, when he had his fill of her, he tossed her out without money. So she got mad and got even.

[1]22:16:16 BILL HUBNER (PEGGY'S EX-GIRLFRIEND)
What is that?

[1]22:16:17 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
The good life.

[1]22:16:17 BILL HUBNER (PEGGY'S EX-GIRLFRIEND)
Oh.

[1]22:16:20 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
I was fascinated and he was very powerful. And he had a way of looking at you and making you think that nobody was on the Earth but you.

[1]22:16:30 SPEAKER (FEMALE)
She's very much in love with him, very much swept away by their lifestyle, the private jet, the Hollywood types that they would rub elbows with.

[1]22:16:39 NORMAN LIPPITT (PEGGY'S ATTORNEY)
I mean, this is lifestyles' of the rich and famous, but you get a chance to live it. And while it was enticing at the beginning, it became all encompassing.

[1]22:16:48 DEBORAH ROBERTS (ABC NEWS)
(VO) It was a life that once belonged to Peggy Horvath. For 17 years, she was the lover, companion, and she says, employee of a powerful businessman, Bill Hubner. Wealthy beyond imagination, Hubner built a half billion-dollar fitness empire and collected lavish homes all over the country. Their story is a surprising example of what can happen when an ultra rich couple, who never marry, split up and go separate ways. Long before the bitterness, it was all so magical. With a love affair that began in August

of 1983. Peggy, then a 22-year-old impressionable college senior was at a party when she first met Hubner, a 49-year-old master of the universe, living in Beverly Hills.

[1]22:17:40 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
He said to me, "Would you like to go to lunch?" And I said well, "Yes, that would be fine." And I said, "Where are we going?" And he said well, "How about Lake Tahoe?" And he had his private jet come and he and I flew up to Lake Tahoe. I would say that he swept me off my feet.

[1]22:18:00 DEBORAH ROBERTS (ABC NEWS)
(VO) Although Bill Hubner was 27 years her senior, the romance blossomed. Charming and persuasive, he soon asked Peggy to move in with him. After graduating from college, she put her dreams of law school on hold and moved to California with the man who had stolen her heart.

[1]22:18:19 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
He just said, "You've been to the University of Michigan, now you're going to be in Hubner U."

[1]22:18:24 DEBORAH ROBERTS (ABC NEWS)
(OC) Hubner U?

[1]22:18:25 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Hubner University, that is what he called it.

[1]22:18:26 DEBORAH ROBERTS (ABC NEWS)
(OC) He said that?

[1]22:18:27 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Oh, yes, yes.

[1]22:18:29 DEBORAH ROBERTS (ABC NEWS)
(VO) Peggy was soon swept up in a life she'd only read about. Jetting around the world first class to all the trendy hot spots. Partying on Bill's 130-foot yacht, and dining in only the finest restaurants.

[1]22:18:43 DEBORAH ROBERTS (ABC NEWS)
(OC) Were you seduced by the lifestyle?

[1]22:18:45 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Well, I was seduced by the - I think, I was seduced by Bill?

[1]22:18:52 DEBORAH ROBERTS (ABC NEWS)
(VO) This small town girl from Michigan was now socializing with Arnold Schwarzenegger, Chuck Norris, and the first President George Bush. She even had a private audience with Pope John Paul II. But as she reached her mid 20's, Peggy gradually began to worry about her future. Bill had twice been divorced. He had four grown children and there was no talk of marriage.

[1]22:19:17 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
He said, "You do not have to worry about that. I mean, you just keep doing what you're doing as if we were married."

[1]22:19:24 DEBORAH ROBERTS (ABC NEWS)
(OC) Did you buy that?

[1]22:19:25 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Absolutely. I believed him. In fact, we shook hands.

[1]22:19:29 DEBORAH ROBERTS (ABC NEWS)
(OC) Shook hands?

[1]22:19:30 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Yes, Bill initiated it. It was very formal. I had complete and total faith in him.

[1]22:19:36 DEBORAH ROBERTS (ABC NEWS)
(VO) And she says, Bill even told her that he had put aside an incredible amount of money for her. Barbara Larose, one of Bill and Peggy's dearest friends say, she was astonished when she heard him make the promise.

[1]22:19:48 BARBARA LAROSE (PEGGY AND BILL'S FRIEND)
He said, Peg has her own safety deposit box. It's in only her name, and she has $3 million.

[1]22:19:59 DEBORAH ROBERTS (ABC NEWS)
(OC) And what did you make of that?

[1]22:20:00 BARBARA LAROSE (PEGGY AND BILL'S FRIEND)
He was serious, dead serious.

[1]22:20:04 DEBORAH ROBERTS (ABC NEWS)
(VO) Peggy thought so, too. She says, she stopped worrying about marriage and immersed herself in the life they were building.

[1]22:20:12 BILL HUBNER (PEGGY'S EX-GIRLFRIEND)
Okay, are we done?

[1]22:20:14 DEBORAH ROBERTS (ABC NEWS)
(VO) Playing the role of corporate wife. But gradually, their relationship began to change. Peggy says, there was a darker side to Bill.

[1]22:20:24 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
You know, we would get ready to go and he would review the outfit, and just, get out of those shoes, you can't wear that. Take those shoes off. He wouldn't have to give a reason, it's just, Bill was very commanding.

[1]22:20:37 DEBORAH ROBERTS (ABC NEWS)
(VO) Did he tell you that he loved you?

[1]22:20:39 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Well, no, not - I think, maybe. He very rarely said those words.

[1]22:20:45 DEBORAH ROBERTS (ABC NEWS)
(VO) Now, over 30 and still madly in love with Bill, Peggy was willing to accept their relationship on his terms. Nearly 10 years after their whirlwind courtship, Peggy says, he was now treating her more like an employee than a girlfriend.

INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT).

[1]22:21:02 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
I would say, I was personal assistant, concierge, household property manager, decorator, and I did later become vice president of travel and luggage, which is his travel agency that he owns.

[1]22:21:14 DEBORAH ROBERTS (ABC NEWS)
(OC) He actually gave you the title, vice president?

[1]22:21:16 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Yes, I had the business cards. It was a bona fide profession.

[1]22:21:21 DEBORAH ROBERTS (ABC NEWS)
(VO) Peggy says, she was now supervising every detail of Bill Hubner's life, right down to preparing every meal.

[1]22:21:29 DEBORAH ROBERTS (ABC NEWS)
(OC) And if you didn't get it exactly right?

[1]22:21:32 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Well, it depend on his mood. I never knew how he was gonna react.

[1]22:21:36 DEBORAH ROBERTS (ABC NEWS)
(VO) What was the worst thing that he said?

[1]22:21:40 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
He did say, ignorant, or untrainable, other things that I, I don't wanna really replay.

[1]22:21:48 DEBORAH ROBERTS (ABC NEWS)
(OC) Did he call you a slut and a whore?

[1]22:21:51 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Oh, God. He called me those things at times, yeah.

[1]22:21:57 DEBORAH ROBERTS (ABC NEWS)
(VO) Then in the winter of 2000, Peggy says, the cruelty became unbearable, when she discovered she had cervical cancer.

[1]22:22:07 DEBORAH ROBERTS (ABC NEWS)
(OC) Was Bill comforting when you became ill?

[1]22:22:10 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
He was very psychologically abusive to me.

[1]22:22:13 DEBORAH ROBERTS (ABC NEWS)
(VO) In what ways?

[1]22:22:14 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
Just going into tirades and, and with no warning, yelling, and screaming, and not talking to me. Just isolating me for days. And I just remember, you know, being totally humiliated.

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[1]22:22:29 DEBORAH ROBERTS (ABC NEWS)
(VO) Peggy and Bill soon separated. He moved her out of his spacious homes and into a tiny apartment in Birmingham, Michigan near her hometown. Still, she continued to work as his assistant, a job she desperately needed. Then, one day, another shocker.

[1]22:22:48 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
When I got home late that evening, there was a fax in my machine from Bill terminating me. His exact words were effective December 31st, '01, the compensation will stop.

[1]22:23:03 DEBORAH ROBERTS (ABC NEWS)
(VO) Peggy was left with no money, no job, and no future. She says Bill had broken his promise to take care of her financially. Refusing her the $3 million he swore he had set aside for her.

[1]22:23:18 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
He said, "Do not call me. Do not contact me any longer. We will be in litigation." And here I thought we had this agreement. I mean, none of it made any sense.

[1]22:23:30 DEBORAH ROBERTS (ABC NEWS)
(VO) Having nowhere to turn, Peggy, now nearing 40, hired a team of lawyers to take on her powerful boyfriend. Since there is no palimony law in Michigan, no law governing splitting of assets for unmarried couples, Peggy went after Bill for breach of contract under Michigan case law, on nontraditional, and non-marriage relationships.

[1]22:23:54 BILL HUBNER (PEGGY'S EX-GIRLFRIEND)
I never had a discussion with her or anyone else about that she would ever be taken care of.

[1]22:24:02 DEBORAH ROBERTS (ABC NEWS)
(VO) But Bill Hubner tells a different story. He declined our repeated request for an interview for this report, citing ongoing litigation. But during several days of taped depositions, he steadfastly denied any arrangement with Peggy.

[1]22:24:17 PROSECUTOR (MALE)
Never promised to pay her or take care of her or do anything like that.

[1]22:24:20 BILL HUBNER (PEGGY'S EX-GIRLFRIEND)
No.

[1]22:24:21 PROSECUTOR (MALE)
Words never came out of your mouth that you take care of her. Don't worry about it.

[1]22:24:23 BILL HUBNER (PEGGY'S EX-GIRLFRIEND)
Never, never, never.

[1]22:24:26 DEBORAH ROBERTS (ABC NEWS)
(VO) In fact, he insists that Peggy was simply a girlfriend who never worked for him.

[1]22:24:31 PROSECUTOR (MALE)
Was she required to help entertain guests?

[1]22:24:35 BILL HUBNER (PEGGY'S EX-GIRLFRIEND)
She was not required to entertain guests.

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[1]22:24:38 PROSECUTOR (MALE)
Is that one of her, part of her tasks and services that she performed on your behalf?

[1]22:24:42 BILL HUBNER (PEGGY'S EX-GIRLFRIEND)
No. She was there while guests were at the house and she was my girlfriend, and she did what normally would take place.

[1]22:24:53 DEBORAH ROBERTS (ABC NEWS)
(VO) During the trial, Hubner insisted he never verbally abused Peggy. His family painted her as a money hungry younger woman. But she hit him with a bombshell. More than 40,000 pages of documents, receipts, invoices, telephone records, outlining her duties in Bill's business. Proof that she was far more than just his girlfriend. David Mendelson and Norman Lippitt are two of Peggy's attorneys.

[1]22:25:19 DEBORAH ROBERTS (ABC NEWS)
(OC) So what would it have taken him for this not have gone to trial?

[1]22:25:24 DAVID MENDELSON (PEGGY'S ATTORNEY)
I think he could, he could have just about offered her anything, as long as he was kind to her and she would have accepted it.

[1]22:25:32 DEBORAH ROBERTS (ABC NEWS)
(OC) Why didn't he just do that?

[1]22:25:34 NORMAN LIPPITT (PEGGY'S ATTORNEY)
My opinion on that would be that it's like everything else in Mr. Huber's life. It's not about what's right and what's wrong, it's about winning and losing.

[1]22:25:44 DEBORAH ROBERTS (ABC NEWS)
(VO) After two weeks in court, a jury found Bill Hubner liable for an astounding $10 million plus the apartment Peggy was living in and all her legal bills, one of the largest awards ever in a case like this. Hubner appealed the decision. Attorney Lynn Gold-Bikin is an expert on family law.

[1]22:26:05 ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT)
If this case prevails, if she wins all the way up, it gives us guidance as to what we can in the future to people who fall into the trap of believing that someone will take care of them forever without that little piece of paper.

[1]22:26:19 DEBORAH ROBERTS (ABC NEWS)
(VO) But the case never went through the appeals process. Since our report first aired, Bill Hubner settled out of court with Peggy for an undisclosed portion of the money and assets the jury awarded.

[1]22:26:31 DEBORAH ROBERTS (ABC NEWS)
(OC) Some people look at you as a gold digger.

[1]22:26:35 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
I embraced his lifestyle because I loved him. It had nothing to do with the physical relationship we had or the personal relationship we had. It had to do with an agreement that was a business agreement.

[1]22:26:51 DEBORAH ROBERTS (ABC NEWS)
(VO) As Peggy begins to rebuild her life, she's hopeful that her story will help others who abandon their dreams of a career and marriage, only to be left alone with nothing in the bank.

INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT)

[1]22:27:04 DEBORAH ROBERTS (ABC NEWS)
(VO) Will you regain the Peggy that you used to be?

[1]22:27:09 PEGGY HORVATH (BILL'S EX-GIRLFRIEND)
I, I don't know. I am damaged. But I would never have recovered if I couldn't somehow stand up to Bill. And so, there is hope that you can come out of an abusive situation and actually come out on top.

[1]22:27:33 ANNOUNCER
Growing up in a world full of you can't, two young lovers fight to say "I do."

[1]22:27:39 CARRIE BERGERON (SUJEET'S WIFE)
If you really love somebody never, ever quit.

[1]22:27:47 ANNOUNCER
Next.

[COMMERCIAL BREAK]

[EOF999]

[STORY: WHEN LOVE CONQUERS ALL]

[STORY2: AFTER A LIFE OF HEARING "YOU CAN'T," YOUNG COUPLE SAYS, "I DO"]

[CORR: BOB BROWN]

[CORLOC: NEW YORK, NY USA]

[TOPIC:]

[CONTENT: DOWN SYNDROME, SUJEET DESAI, CARRIE BERGERON]

[1]22:31:36 JOHN STOSSEL (ABC NEWS)
(OC) Every walk down the aisle has twists and turns, the planning, the in-laws even the occasional second thoughts can chill the feet. But tonight, you'll meet a most unlikely couple whose heart-warming journey to the altar may renew your faith in the idea that love really can conquer all. Here's Bob Brown.

[1]22:32:03 BOB BROWN (ABC NEWS)
(VO) The world hasn't seen many marriages like the one that was prepared for Carrie Bergeron, and her fiancé Sujeet Desai. They would have two weddings, Hindu and Christian, so the plan went, and two magical celebrations. But, more importantly, they were bringing their families, a community, their religions and a cause along with them, a cause that could have kept them apart.

[1]22:32:26 CARRIE BERGERON (SUJEET'S WIFE)
I had a hole in my heart, jaundice, a big tongue and a wobbly head. As I got older, I also realized that I am a slow learner.

[1]22:32:36 BOB BROWN (ABC NEWS)
(VO) Carrie Bergeron is 29 years old, a young woman with Down syndrome. Technically, it means she was born with an extra copy of a chromosome in her genetic make-up that causes people with Down syndrome to have learning disabilities that can be mild or severe. Heart defects are common. There are

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also physical symptoms such as an enlarged tongue that can cause words to sound slurred and extra folds of skin under the eyes. Doctors used to describe that condition with a brutal term, mongolism, and recommend that children like Carrie be institutionalized. But Carrie's parents sought care for her from the beginning.

[1]22:33:15 PEGGY BERGERON (CARRIE'S MOTHER)
We had therapists and speech pathologists, and people coming in constantly. They would come every week, two hours a week to work with us. So, developmentally, we always knew where she was.

[1]22:33:29 BOB BROWN (ABC NEWS)
(VO) Despite being a slow learner, Carrie grew up to speak as an advocate for people with Down syndrome. She earned a certificate as a teacher's assistant. And she works as a volunteer aide in this day care classroom at the New Discoveries Learning Center in New York. But in her teens, she knew there was something missing, and so did her mother.

[1]22:33:49 PEGGY BERGERON (CARRIE'S MOTHER)
When she was about 15, I really noticed the loneliness. It was looming big time. And I just could see, when her sisters or her brother went off with friends, it was just the look in her eyes as if to say, "I wish I could do that."

[1]22:34:07 CARRIE BERGERON (SUJEET'S WIFE)
I was very lonely, because my friends, they don't have any special needs, and they can do things that I couldn't do. Like having a job, and sports, and also hanging out with their boyfriends and girlfriends. And I was very lonely, because I didn't have anyone.

[1]22:34:38 BOB BROWN (ABC NEWS)
(VO) Life changed in unexpected ways when Carrie met this 25-year-old man. He is Sujeet Desai, who also was born with Down syndrome. His parents both work as dentists in upstate New York. It took a long time for Sujeet, as a child, to learn the right words to express himself. But his parents found that music helped stimulate him. And although he struggled, he learned, and now plays six instruments.

[1]22:35:04 SINDOOR DESAI (SUJEET'S MOTHER)
He was slow and steady, and he loved it. And that's why he learned it.

[1]22:35:12 BOB BROWN (ABC NEWS)
(VO) He also entertains in nursing homes and events for people with Down syndrome. And when he encountered Carrie Bergeron at a National Down Syndrome Conference in Pittsburgh, it was love at first sight.

[1]22:35:23 SUJEET DESAI (CARRIE'S HUSBAND)
I said to my parents, "This is the girl that I really want to date, and to have someone in my life."

[1]22:35:32 BOB BROWN (ABC NEWS)
(OC) Do you have a special name for her?

[1]22:35:34 SUJEET DESAI (CARRIE'S HUSBAND)
Actually, yes. I call her "care bear."

[1]22:35:39 CARRIE BERGERON (SUJEET'S WIFE)
And when he calls me "care bear," I feel so different and so special. I feel like someone really cares about me and loves me and wants to be with me my whole life long.

[1]22:35:59 **BOB BROWN (ABC NEWS)**
(VO) Sujeet and Carrie began dating. Supervised first by their parents, and also by aides for people with Down syndrome, such as Christina Schilling.

[1]22:36:08 **CHRISTINA SCHILLING (INDEPENDENT LIVING SKILLS AIDE)**
We'll have a couple more minutes, okay, guys.

[1]22:36:10 **BOB BROWN (ABC NEWS)**
(VO) What took their families completely off guard was when these two young people who needed others to drive them, to help them count money and prepare food, began to consider the idea of marriage.

[1]22:36:21 **TIM BERGERON (CARRIE'S FATHER)**
My biggest concern was like in the middle of the night, the lights go out or there's a thunderstorm and they get somewhat panicked, you know, who do they call who is more or less next door or nearby?

[1]22:36:34 **SHARAD DESAI (SUJEET'S FATHER)**
And I said, "Come on, you know, wedding? How could they get married, you know? It's not possible."

[1]22:36:41 **PEGGY BERGERON (CARRIE'S MOTHER)**
I think just taking on the responsibility of being a wife full-time, I mean, to cook meals every night and, you know, when something comes up that there's a little problem having to work it through, as we all do in all of our marriages.

[1]22:36:58 **BOB BROWN (ABC NEWS)**
(VO) But here's the other side of the story, people like Christina Schilling are part of a network of services that are provided to people with Down syndrome to help them schedule their days and live more independently.

[1]22:37:09 **CHRISTINA SCHILLING (INDEPENDENT LIVING SKILLS AIDE)**
So, that would be volunteering, right?

[1]22:37:13 **BOB BROWN (ABC NEWS)**
(VO) Carrie and Sujeet both receive social security, as well. And everyone wanted to come together to do their best for the couple, to make a plan so they could marry.

[1]22:37:23 **CHRISTINA SCHILLING (INDEPENDENT LIVING SKILLS AIDE)**
A lot of scheduling between myself and Sujeet's support workers, just trying to match the schedules and maybe have some overlapping periods.

[1]22:37:31 **SHARAD DESAI (SUJEET'S FATHER)**
So, somebody would help them kind of plan the menu, help them kind of cook. And once that's done, they'll be on their own through the night until the next morning.

[1]22:37:45 **BOB BROWN (ABC NEWS)**
(VO) Those decisions created a priceless moment at a musical show for a Down syndrome group. Sujeet, performing as the phantom of the opera, brought Carrie, who was unaware of what was about to happen, onto the stage.

[1]22:37:59 **CARRIE BERGERON (SUJEET'S WIFE)**
He took my hand and he pulled me up on stage, and we got to dancing (sic) together.

INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT)...

[1]22:38:07 TIM BERGERON (CARRIE'S FATHER)
And Carrie has no idea why she's going up on stage. She just thinks it's (sic) part of the performance.

[1]22:38:14 CARRIE BERGERON (SUJEET'S WIFE)
And then, he got down on his knee, and I said "Oh, boy."

[1]22:38:23 SUJEET DESAI (CARRIE'S HUSBAND)
And I said. "Carrie Bergeron, I love you so much. I always do, and will you marry me?"

[1]22:38:34 CARRIE BERGERON (SUJEET'S WIFE)
Yes.

[1]22:38:39 CARRIE BERGERON (SUJEET'S WIFE)
And then, I started shaking and crying with happy tears. All I knew was that I was in love with him. I just wanted to hug him and kiss him on the cheeks and everything. And then, he gave me a kiss on the lips, and it was just magical. It was just wow. I was like on cloud nine.

[1]22:39:08 BOB BROWN (ABC NEWS)
(VO) On their own excursions, including trips on a rowboat on a lake behind the Desai's house, they were, in a very real sense, escaping into uncharted waters. It is rare for people with Down syndrome to marry. Carrie loved pretending they were on the "Titanic," the way it was in the movies.

[1]22:39:19 CARRIE BERGERON (SUJEET'S WIFE)
I'm so glad I'm with you, Jack.

[1]22:39:22 SUJEET DESAI (CARRIE'S HUSBAND)
I'm not gonna leave you.

[1]22:39:25 BOB BROWN (ABC NEWS)
(VO) The question of children was settled by Carrie's decision to undergo a surgical procedure to prevent conception since the likelihood of having a Down syndrome child would be high, and it would be virtually impossible for Carrie and Sujeet to care for a child on their own.

[1]22:39:41 CARRIE BERGERON (SUJEET'S WIFE)
Children is (sic) a big responsibility, and we just have to be responsible for ourselves, really.

[1]22:39:50 SUJEET DESAI (CARRIE'S HUSBAND)
I love you.

[1]22:39:51 CARRIE BERGERON (SUJEET'S WIFE)
I love you, too.

[1]22:39:53 BOB BROWN (ABC NEWS)
(VO) Carrie and Sujeet were distinctly aware of their parents' nervousness about the wedding. And in midsummer, with the event only weeks away, took a private moment to put their heads together and pray for the best.

[1]22:40:05 SUJEET DESAI (CARRIE'S HUSBAND)
I love my parents, Carrie loves her parents, everything's gonna go perfect. God, oh, God, we know that we are gonna do it.

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INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT)

[1]22:40:18 **BOB BROWN (ABC NEWS)**
(VO) One thing, amidst all the preparations, all the unusual circumstances, was out of everyone's hands. And that was the circumstance involving life and death that could have been devastating to the ceremonies they dreamed of.

[1]22:40:37 **ANNOUNCER**
Experts told her parents she would never be able to live on her own. Now, she's about to be married. But would her loving father be there to walk her down the aisle?

[1]22:40:47 **TIM BERGERON (CARRIE'S FATHER)**
She wasn't too sure if I'd be able to carry her like a proud papa.

[1]22:40:53 **ANNOUNCER**
Next.

[COMMERCIAL BREAK]

[1]22:43:15 **ANNOUNCER**
Two loving families, brought together by a marriage neither thought possible.

[1]22:43:20 **PEGGY BERGERON (CARRIE'S MOTHER)**
And I'm gonna have to let go.

[1]22:43:24 **ANNOUNCER**
Can true love get them past the obstacles on the path down the aisle? When "20/20" continues after this from our ABC stations.

[COMMERCIAL BREAK]

[1]22:45:28 **ANNOUNCER**
"20/20" continues, with Bob Brown.

[1]22:45:36 **BOB BROWN (ABC NEWS)**
(VO) Carrie Bergeron and Sujeet Desai were getting married twice. In a Hindu ceremony and a Christian ceremony on separate days. For each, Carrie was dressed and treated like a princess.

[1]22:45:54 **SINDOOR DESAI (SUJEET'S MOTHER)**
You are now the bride to be.

[1]22:46:01 **BOB BROWN (ABC NEWS)**
(VO) And she received the traditional design in henna auspicious for the bride on her hands.

[1]22:46:09 **RELATIVE (FEMALE)**
He's right back there.

[1]22:46:11 **BOB BROWN (ABC NEWS)**
(VO) Kept apart from each other by tradition on their wedding day, they found ways of communicating nevertheless.

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[1]22:46:19 RELATIVE (FEMALE)
The love that they have, it's just so untainted. I mean, a lot of, especially adult relationships are very full of, you know, pretense and manipulation. And with them, it's just not. It's just true, and it's just exactly what it is. It's just beautiful, it really is.

[1]22:46:37 BOB BROWN (ABC NEWS)
(VO) Sujeet, on the day of the Hindu wedding, was still worried that his parents might be troubled by the decision he had made to marry.

[1]22:46:44 SUJEET DESAI (CARRIE'S HUSBAND)
Just love me, okay?

[1]22:46:48 SINDOOR DESAI (SUJEET'S MOTHER)
Okay.

[1]22:46:48 BOB BROWN (ABC NEWS)
(VO) To be absolutely sure, he sent a note when the others went out to take their places

[1]22:46:54 SUJEET DESAI (CARRIE'S HUSBAND)
Could you send that to my mom?

[1]22:46:56 BOB BROWN (ABC NEWS)
(VO) Now, do you believe it can work?

[1]22:46:57 SHARAD DESAI (SUJEET'S FATHER)
Oh, absolutely. Absolutely. I'm pretty sure it's gonna work. And we have so much support from both the families.

[1]22:47:05 BOB BROWN (ABC NEWS)
(VO) One family issue caused serious concern for the happiness that would accompany the ceremonies. At one point, Carrie's father, Tim Bergeron, didn't know whether he would survive to attend the wedding after he was diagnosed with leukemia.

[1]22:47:20 TIM BERGERON (CARRIE'S FATHER)
I guess from Carrie's perspective the biggest impact was she wasn't too sure if I'd be able to carry her, like a proud papa.

[1]22:47:29 BOB BROWN (ABC NEWS)
(VO) Weeks before the ceremony, he learned the disease was in remission. And will there be meaning there for you beyond what you might have imagined?

[1]22:47:39 TIM BERGERON (CARRIE'S FATHER)
You know, I think, it'll be just a very rewarding time. I mean, when you have a professional saying that you may have to put your child into an institution...

[1]22:47:55 BOB BROWN (ABC NEWS)
(OC) And then soon you'll be leading her down the aisle?

[1]22:47:58 TIM BERGERON (CARRIE'S FATHER)
And then to come to this point. All I can say is thumbs up.

[1]22:48:09 BOB BROWN (ABC NEWS)
(VO) Even though there were two ceremonies, Hindu and Christian, and even though they were a week apart, they fit together seamlessly as celebrations of all that is possible no matter where you come from or who you are.

[1]22:48:22 HINDU PREACHER (MALE)
Don't we all live under the same sun? Live on the same earth?

[1]22:48:26 PRIEST (MALE)
You are a princess, and you are a prince in God's kingdom.

[1]22:48:31 HINDU PREACHER (MALE)
It's a great honor for me to witness the marriage of you, Sujeet, and you, Carrie

[1]22:48:37 CARRIE BERGERON (SUJEET'S WIFE)
You have filled my life with your love.

[1]22:48:43 HINDU PREACHER (MALE)
This is the holy water.

[1]22:48:50 PRIEST (MALE)
For better.

[1]22:48:50 CARRIE BERGERON (SUJEET'S WIFE)
For better.

[1]22:48:51 PRIEST (MALE)
For worse

[1]22:48:52 CARRIE BERGERON (SUJEET'S WIFE)
For worse.

[1]22:48:53 HINDU PREACHER (MALE)
To stay with you as long as I live.

[1]22:48:55 PRIEST (MALE)
By their promises before God, and in the presence of this congregation ...

[1]22:49:00 HINDU PREACHER (MALE)
God have blessed you a beautiful life.

[1]22:49:04 PRIEST (MALE)
Mr. and Mrs. Sujeet Desai.

[1]22:49:16 BOB BROWN (ABC NEWS)
(VO) For her first dance with Sujeet as husband and wife, Carrie wanted her sister, Wendy to sing the theme from "Titanic." No doubt heard at thousands of weddings since it became such a standard. In a world where we often honor people with special needs as inspirations for achievements beyond our expectations, but may look away from issues such as loneliness, this couple had their own interpretation of the words

INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT).

[1]22:49:52 BOB BROWN (ABC NEWS)
(OC) What does that song mean to you?

[1]22:49:54 CARRIE BERGERON (SUJEET'S WIFE)
It means no matter where we are in life, we will never grow apart. If you really love somebody, never, ever quit. Don't ever think that when you really love somebody, you will know.

[1]22:50:25 JOHN STOSSEL (ABC NEWS)
We'll be right back.

[1]22:50:28 ANNOUNCER
Think a giant asteroid hitting the earth is only the stuff of movies? Think again.

[1]22:50:35 SCIENTIST (MALE)
I don't want to be around for that day.

[1]22:50:37 ANNOUNCER
And this is only one of the seven ways the greatest minds on Earth tell us the world could end. Next.

[COMMERCIAL BREAK]

[1]22:55:08 DEBORAH ROBERTS (ABC NEWS)
(OC) So often we're told to live every day like it's our last. Well, according to some scientists we talked to, it just might be. So before you send off next month's rent or mortgage check, you might want to see if you agree with what the experts told Elizabeth Vargas about the last days on Earth.

[1]22:55:28 SCIENTIST (MALE)
I like what they always show in Hollywood as the asteroid comes, people hear it, and look up and see this flaming ball moving. These objects are moving, 10, 15 miles per second. That is hypersonic. You're not gonna hear it, you're not gonna see it.

[1]22:55:42 SCIENTIST (MALE)
It takes it a few seconds from when it first hits the top of the Earth's atmosphere to when it actually touches down. During those few seconds, it glows not red hot, yellow hot, white hot, getting up into violet hot. And that is so hot, that if you were anywhere on Earth in the big circle of maybe 1,000 miles diameter where you could actually see this thing coming down, the heat and light coming off of it would just burn you to death immediately. Then it hits. And it starts digging a crater. It takes a long time for a big crater to form, maybe a minute as the Earth, when you think of a solid rock gets splashed out by this enormous impact.

[1]22:56:29 JOHN STOSSEL (ABC NEWS)
(OC) And if that's not enough to scare you, next Wednesday night on a special two-hour edition of "20/20," called "Last Days On Earth," Elizabeth Vargas will discuss all seven world ending scenarios. That's next Wednesday night, starting at 9 PM Eastern Time. Our regular edition of "20/20" will still air next Friday. I hope.

FOR INFORMATION ON ORDERING A VIDEO OR TRANSCRIPT COPY OF ABC NEWS OR ABC NEWS NOW PROGRAMMING, PLEASE VISIT THE SECURE ONLINE ORDER FORM LOCATED AT
WWW.TRANSCRIPTS.TV

[EOF999]

INTERVIEWEES: ANNOUNCER, ATTORNEY LYNN GOLD-BIKIN (FAMILY LAW EXPERT)

[END OF TAPE]

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

THOMAS C. AND PAMELA McINTOSH,
Plaintiffs,

VERSUS CIVIL ACTION NO: 1:06-cv-1080-LTS-RHW

STATE FARM FIRE AND CASUALTY
COMPANY; AND FORENSIC ANALYSIS
& ENGINEERING CORP ,
Defendants.

VIDEOTAPED DEPOSITION OF KERRI RIGSBY

Taken at the First Federal Savings and Loans Bank, 903 Jackson Avenue, Pascagoula, Mississippi, on Monday, April 30, and Tuesday, May 1, 2007, beginning at 9:22 a.m.

REPORTED BY:

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ALSO PRESENT:

KELLY CHARNOCK, ESQUIRE
STATE FARM FIRE AND CASUALTY COMPANY

VIDEO TECHNICIAN:

DOT CLAY, DANCEL GROUP

they interview you, particularly when they're interviewing yourself and other people regarding an event, that they may talk to you about more things than what they eventually put on the air, and you have different -- or additional questions and answers that don't make the broadcast. Was

that your experience?

MR. HAWLEY:

I'll object to the form, but answer if you can.

A. They sent me the disk. I never watched it.

MR. WEBB:

Q. Okay. Did you ever watch the 20/20 program?

A. I watched the program.

Q. Was there anything in your interview in terms of question and answers, the actual interview that you did, that was not included in the program?

A. I'm -- I'm sure there was.

Q. Okay.

A. Oh, yeah. I watched the 20/20 show.

Q. That was in August?

A. In August. And, absolutely, there was --

Q. So it's clear, it was August of 2006?

A. Correct.

Q. And I understand -- and I'm not sure whether this is from yours or Cori's testimony in the Renfroe case, but I understand that was done

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around August the 15th.

A. That sounds close.

Q. And within 10 days, about the 25th, I believe, is when the interview was broadcast. I'm not certain of that date. Do you recall?

A. It's around that date.

Q. Okay. But you've never actually looked at the video that you had been provided?

A. Right. I was provided a video from 20/20, and I did not view it.

Q. Okay So you don't know whether that video -- as we sit here today, you don't know whether that video contains the entire interview with you or whether it's just the material that was on the television?

A. I do not.

Q. Okay You seem to be fairly certain from your testimony, and actually the expression on your face, that the information that you exchanged during your interview was more than what was shown on the broadcast; is that a fair assumption on my part from your answer?

A. Yes.

Q. Okay. What, if anything, do you recall was the extent -- excuse me, was the nature of the

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communications that occurred between you and 20/20 during the interview?

MR. HAWLEY:

You mean other than what was aired? In other words, what was left on the editing floor?

MR. WEBB:

Well, I don't know if she can tell me that because she's not seen -- not seen the other, as I recall.

MR. BANAHAN:

She watched the program.

MR. WEBB:

Yeah. She watched the actual program.

Q. So what was -- to use your counsel's words, and I think that's a very good way to state it: What was left on the editing floor, if that's what, in fact, happened?

A. I know they were taping for several hours, or were at the house for several hours. And I believe the actual footage was, you know -- I don't know, 10 minutes, 15 minutes. So there had to be more video than what was shown.

Q. Okay.

A. But a lot of it was down time. They videotaped us interacting with each other and walking around the house and driving up the road, so, you know, there was a lot of that. But I don't know the -- I couldn't tell you exactly what was said that wasn't aired. There's no way for me to do that.

Q. Okay. How many hours were you videotaped?

A. I don't know how many hours I was videotaped. I know they were there at the home maybe four -- maybe four hours.

Q. Okay And do you recall who all was

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there at the home?
A. Cori and myself. My mother was there.
Q. Ms. Lobrana?
A. Ms. Lobrana.
Q. Okay.
A. The crew.
Q. Camera?
A. Camera, lights.
Q. Tech people?
A. Makeup. Brian Ross, his producer. Dick came by. He wasn't there for the whole thing, but he did come by.
Q. Meaning Mr Scruggs?
A. Mr. Scruggs did come by.

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Q. When you say "the house," what house are you talking about?
A. The house. Cori's house, 10021 Mockingbird Circle.
Q. All right. Were you interview by the 20/20 program at any place other than that house?
A. Yes
Q. Where?
A. We went to a slab on Lovers Lane. And they wanted to see, you know, some of the slabs and devastation outside.
Q. So it will be clear in the record, you said a slab on Lovers Lane. Lovers Lane is a street?
A. Correct, it's a street.
Q. In --
A. Ocean Springs.

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Q. -- Ocean Springs?
A. Uh-huh.
Q. And did you pick the slab or did Cori?
A. We just knew there was a lot of devastation on Lovers Lane.
Q. Okay
A. So we rode down there and just picked one of the slabs. There was many to chose from.

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Q. Yes, ma'am. Do you recall who owned that particular property, or did you know at the time?
A. I know who owns the property, yes.
Q. Who is that?
A. Judy Guice.
Q. Okay So you went to Ms. Guice's house?
A. Uh-huh.
Q. Any particular reason that you picked hers that you can remember?
A. There's no reason, no.
Q. Okay. Do you know Ms. Guice?
A. No.
Q. You never met her?
A. I'm sure I've met her before Katrina, but, no. I mean, I -- in passing.

MR. WEBB:

Okay. I don't see what the difficulty would be at least in providing the video. I don't know what's on the video. You guys --

MR. HAWLEY:

That's something we can provide. Again, in the interest of -- based on limited time.

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I, F. DUSTY BURDINE, Court Reporter and Notary Public, in and for the County of Harrison, State of Mississippi, hereby certify that the foregoing pages, and including this page, contain a true and correct transcript of the testimony of the witness, as taken by me at the time and place heretofore stated, and later reduced to typewritten form by computer-aided transcription under my supervision, to the best of my skill and ability

I further certify that I placed the witness under oath to truthfully answer all questions in this matter under the authority vested in me by the State of Mississippi.

I further certify that I am not in the employ of, or related to, any counsel or party in this matter, and have no interest, monetary or otherwise, in the final outcome of the proceedings.

Witness my signature and seal, this the _____ day of _____, 2007.

_____
F Dusty Burdine, CSR #1171
My Commission Expires 4/20/09

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ERRATA SHEET

I, _____, do solemnly swear that I have read the foregoing _____ pages of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:

Page: Line: Correction: Reason for Change:

_____

_____

From: Dick Scruggs <DickScruggs@scruggsfirm.com>
Sent: Monday, August 14, 2006 7:59 AM
To: 'Kunzelman, Michael' <mkunzelman@ap.org>
Subject:
Attach: SF Disclosure.pdf

INTRODUCTION

Cori Rigsby and Kerri Rigsby are employees of E. A. Renfroe, a company that provides claims adjustment services to insurance companies in disaster situations. They have been loyal employees for the past eight years. In the past eight years Cori has handled claims on the catastrophe teams of Travelers, Nationwide and State Farm. Kerri has handled claims for State Farm's catastrophe team. Until Katrina, the monster storm that literally wiped out several Mississippi communities, Kerri and Cori had always been proud to be associated with State Farm and Nationwide, even though they were not direct employees of State Farm.[1] With Katrina, Cori, Pat and Kerri saw a sea change in the way that claims were handled by State Farm and Nationwide with respect to how claims were adjusted with respect to flood insurance. The relators were shocked and horrified that the company that had previously dealt very fairly with its customers was now engaging in wholesale fraud both on policy holders and on the federal government. This False Claims Act case arose out of that experience.

This Evidentiary Disclosure provides an overview of the National Flood Insurance Program (NFIP) as well as a brief look at storm surge and the respective liabilities of insurers under the NFIP. It discloses the concrete existence of two separate instances where homeowners claims were fraudulently misallocated to flood insurance

[1] Although neither Kerri nor Cori are State Farm employees, customers of State Farm would not know this because the relators are given cards identifying them as State Farm employees, are provided with notebook computers for logging their claims-related activities, and are issued jackets with State Farm's name on them. They are also issued a claims identifier number that identifies them as an adjuster within the State Farm system.

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claims at the cost of both the homeowner and the federal government. This grew out of the total control that State Farm had in adjusting its losses.[2]

OVERVIEW

Insurers Pushed Losses Onto The NFIP In Order To Protect Reserves.

This is a False Claims Act case that involves the National Flood Insurance Program, (NFIP) a federal insurance program that is managed by the Federal Emergency Management Agency, (FEMA). FEMA is the only entity in the United States that underwrites flood insurance. Although FEMA underwrites flood insurance, it does not sell directly to the public, but instead, operates through a series of independent insurance companies. At least two of these companies (State Farm and Nationwide), and on information and belief many more (USAA, Allstate), are engaged in a concerted effort to re-adjust losses in such a way that, where applicable, the payment for claims that would normally fall under the company's own homeowner's or hurricane coverage is instead transferred to the NFIP. The misallocation and transfer of losses from State Farm and Nationwide to the federal government was achieved through the use of purportedly "independent" professional engineers who were asked to conduct forensic analyses of the losses. Whenever a loss report from an engineer identified "wind" as the source of the damage, State Farm directed the engineers to recharacterize the damage as flood damage.

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2 Incredibly, the NFIP puts the fox squarely on guard duty for the hen house because it allows the insurers to adjust the losses in conjunction with the losses attributable to homeowners insurance. As a result, as shown below, the insurer has a strong incentive to reclassify damage as flood rather than wind.

and if an engineering firm refused, their contracts were cancelled and their services were never retained again.

Although the present scope of the fraud is unknown, it is known that in Mississippi alone State Farm has adjusted upwards of $1.2 billion in losses from Hurricane Katrina. If only ten percent of those claims are flood insurance claims, the scope of the fraud with State Farm alone could exceed $120,000,000. Relators information, obtained by direct work with State Farm and Nationwide Insurance, indicates that both insurers have a planned, systematic response to claims-handling that directs that claims be shuffled off to FEMA whenever and wherever possible. This system is operated by directing supposed independent contracting engineering firms to always find that flood, and not wind, caused the damage when doing a source investigation on the nature of the claim.

How Flood Insurance Claims Work

In most cases under the NFIP the federal government only acts as the funding source for paying and underwriting claims while the coverage is sold through private insurance companies. Although the companies sell the policies, the policy itself is a standard document drafted by FEMA. Federal regulations require adjustment according to federal standards.

When there is a claim under a Standard Flood Insurance Policy ("SFIP") the insurance company is required to adjust the claim in accordance with these federal regulations. The applicable regulation, 44 CFR § 62.23(d) provides: "A WYO Company issuing flood insurance coverage shall arrange for the adjustment, settlement, payment

and defense of all claims arising from polices of flood insurance it issues under the [National Flood Insurance Program], based on the terms and conditions of the Standard Flood Insurance Policy." In acting as the claims adjuster for the government, the WYO companies are fiscal agents of the government and payments on SFIP claims are a direct charge on the United States Treasury. See ***Wright v. Allstate Ins. Co.***, 415 F.3d 384, 386-87 (5th Cir. 2005). To the extent that an insurer presents a claim for reimbursement under the SFIP to the federal government, that claim is presented to an officer or agent of the United States Government for payment, and any false claims are actionable under the False Claims Act.

Whenever an insurer like State Farm Insurance or Nationwide Insurance has sold a homeowner's policy or hurricane policy (one that the insurance company directly underwrites), and also issues a flood insurance policy under the NFIP, the flood insurance policy is never written for an amount that is larger than the homeowner's insurance policy or the accompanying hurricane insurance policy. More importantly, coverage is capped at $250,000 for structures and $100,000 for contents.

Under the NFIP rules and regulations, the insurance company that writes the companion flood insurance policy must adjust both the homeowners and the flood insurance claim. In doing so, there is a built-in conflict of interest. Because it adjusts the loss, and maintains control over the adjusting process (being solely responsible for gathering information in order to adjust the claim), the insurance company has an incentive to charge off **all damage** to the government as flood damage because when they do so, the government, acting through FEMA, pays the entire claim, thereby relieving the company of its obligation under its own policy of insurance. The only

situation where flood and homeowners or hurricane policies collide is in the area of hurricane damage.[3]

State Farm has, for some time, adopted the view that Flood Insurance is a superseding coverage in that if there is damage from wind and from flood, the flood policy is paid and the homeowner's insurance is never tapped for damages. State Farm has colloquially referred to this doctrine as the doctrine of concurrent causation. So, if a homeowner had only $40,000 in flood coverage, and $150,000 in homeowners or hurricane insurance, and suffered a total loss of their property from a hurricane, State Farm would offer to pay the $40,000 in flood coverage, and once paid, would disallow any claim on the homeowners or hurricane policies because in their view if there was flood damage it took precedence over the wind damage, even though the wind may have actually caused the damage to the structure. Thus State Farm has always viewed flood coverage as a mechanism to reduce the amount paid from its own reserves. If flood and some other cause worked to destroy a structure, the doctrine of concurrent causation meant that only the flood coverage was paid.[4]

The NFIP Definition of Flood

To reduce the potential for misallocation of claims, "flood" is a term narrowly defined by statute and rule. 42 USC § 4121(1) states "the term "flood" shall have *such meaning as may be prescribed in regulations of the Director*, and may include inundation

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[3] For example, in the case of a tornado or hail-related loss under a homeowners policy, losses related to water damage would be clearly incidental to the claim, and even though a policy might include a flood loss provision under the NFIP, the claim could not be easily disguished because the primary means of damage is wind or hail. But in the case of a hurricane, particularly in coastal areas with a storm surge, a sizeable amount of water may be involved. Irrespective of whether the damage resulted from waves and water or wind, the insurance company can hide a loss under the NFIP because both wind and water are associated with a hurricane.

[4] This doctrine is not codified in the NFIP statute nor is it codified in the NFIP regulations.

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from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge;"

The director has provided the following definition of flood:

Flood, as used in this flood insurance policy, means:

> A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (one of which is your property) from:
>
> Overflow of inland or tidal waters,
>
> Unusual and rapid accumulation or runoff of surface waters from any source,
>
> Mudflow.
>
> Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined in A.1.a. above.

44 CFR Pt. 61, App. A(1)

A. Storm Surge Versus Flooding

Most of the flooding occurring in coastal areas of Mississippi due to the hurricane was associated with storm surge. This is a poorly understood phenomenon in most insurance companies[5].

Storm surge is simply water close to the hurricane's eye that is sucked upward by the intense low pressure inside the storm's eye. As the storm's eye moves toward shore, the depth of the ocean water decreases as the storm moves forward. The mound of water sucked upward by the eye's low pressure is pushed toward the shore by the force of the

[5] Meteorologists and FEMA understand the process of storm surge quite well, and identified only a very few areas as associated with storm surge and flooding during Katrina. Insurance companies, however, attributed an inordinate amount of damage to this phenomenon.

winds swirling around the storm. This advancing surge combines with the normal tides to create the hurricane storm tide, which can increase the mean water level 15 feet or more. In addition, wind driven waves are superimposed on the storm tide. This rise in water level can cause severe flooding in coastal areas, particularly when the storm tide coincides with the normal high tides. Because much of the United States' densely populated Atlantic and Gulf Coast coastlines lie less than 10 feet above mean sea level, the danger from storm tides is tremendous.

In general, the more intense the storm, and the closer a community is to the right-front (or northeast) quadrant, the larger the damage related to storm surge. However, since the surge comes ashore as the eye wall moves onto land, storm surge follows by four to six hours after the arrival of hurricane force winds. Thus flooding from storm surge would normally be seen only where the hurricane made landfall, and only in low-lying coastal areas

During Hurricane Katrina, FEMA identified only small parts of the Mississippi coast as flood damaged, generally around Bay St. Louis. The remainder was identified as hurricane damage. In most locations where defendants have written flood insurance and collected premiums under the NFIP, the companies have also written homeowners and hurricane insurance. Under the arrangement between the company and FEMA, (44 CFR Pt. 62, App. A), the government requires that when the company writes coverage for other perils and flood insurance, that one adjuster be used.

Based on relator's observations, and upon direction received from the defendants, beginning at about the time the first claims began to be submitted by adjusters for Hurricane Katrina, defendant made a corporate decision to misdirect and misallocate

claims from those of hurricane or homeowner's coverage (which it would be required to pay from its reserves or reinsurance) to flood claims that could be submitted and paid directly from the United States Treasury.

Defendant State Farm, and on information and belief, Nationwide Insurance Company, USAA, and Allstate all directed their employee adjusters and independent contractor adjusters to show flood damage whenever and wherever there was any amount of water damage, and to adjust the claim as flood insurance rather than hurricane insurance even though the primary mechanism for damage was wind, not flood waters. Where wind, or wind and water, made a structure unsalvageable, the claims were misallocated into flood insurance claims because flood insurance claims were paid by the US Treasury and did not come out of the company's reserves.

This misallocation of claims has resulted in significant damage to the federal treasury. Not only were the claims themselves paid out of federal funds, each loss was adjusted so as to "hit limits" so that as many dollars as possible would be charged against the NFIP. This because the larger the value of the claim, the larger the reimbursement for adjusting that claim. The cost of adjustment ($7,000 or more on a policy limits claim) is passed along to the federal government as a cost of adjustment.

Relators are aware of at least two specific instances where Defendant State Farm has engaged in such behavior. Worse, State Farm, aware that it has engaged in conduct that is false and fraudulent, is taking extraordinary steps to protect itself by shredding documents and hiring document shredding companies to dispose of documents at its Mississippi offices. The examples that follow are derived from Relators' personal knowledge.

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On October 4, 2005, Insurance Adjuster Cody Perry issued an assignment to defendant Forensic Analysis Engineering Corporation (FAEC) for the purpose of having FAEC determine the nature of the destruction of the McIntosh property located at 2558 S. Shore Dr., Biloxi, MS.

FAEC carried out the assignment on October 7, 2005. The firm did a site inspection and reached conclusions based on the inspection. It concluded that the damage that occurred to the policy holder's home at the time of the hurricane was due principally to wind, and not to water. That report was dated October 12, 2005. The report said:

CONCLUSIONS

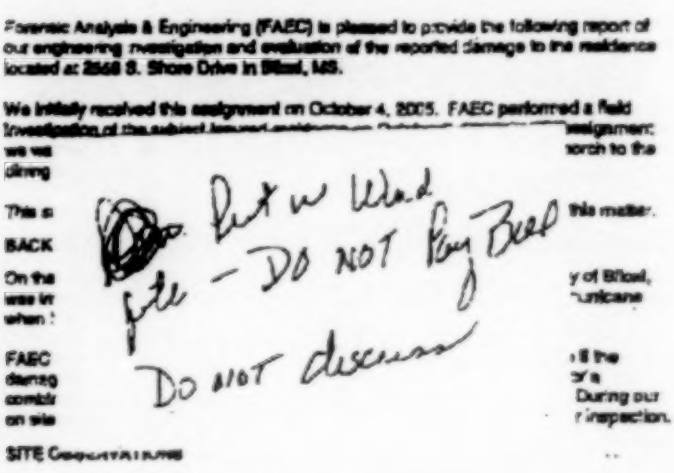
Based upon the information that has been presented to FAEC and evidence gleaned during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusion concerning the damage to the structure.

- The tree failures in the northwesterly direction are the result of the winds out of the southeast from the approaching hurricane.
- The roof, door, carport, and window damage was caused by wind and wind driven debris.
- It is FAEC's opinion that the interior damage of the structure is primarily the result of the failure of the windows, walls, and doors due to wind.

The conclusions and opinions presented in this report are based on the results of FAEC's field investigation of the subject residence, as well as our analysis of the available wind and localized water level data and upon all of the other associated information that we have gathered during the course of our investigation efforts to date. If additional information or facts become available which materially affect these stated conclusions and opinions, then, FAEC reserves the right to amend or change its opinions and conclusions as needed.

This report never became part of the permanent record of the McIntosh claim because it was recognized as contrary to the direction given to State Farm adjusters. On information and belief, Alexis "Lecky" King, a State Farm Insurance supervising adjuster

(and State Farm's guru on Flood Insurance) wrote the following note on the report: "Put in Wind file - DO NOT pay bill. Do Not Discuss" A copy of that note is shown below:


Forensic Analysis & Engineering (FAEC) is pleased to provide the following report of our engineering investigation and evaluation of the reported damage to the residence located at: 2568 S. Shore Drive in Biloxi, MS.

We initially received this assignment on October 4, 2005. FAEC performed a field investigation of the subject [illegible] assignment we [illegible] torch to the claim.

This is [illegible] this matter.

BACK [illegible]

On the [illegible] y of Biloxi, was in [illegible] hurricane when [illegible]

FAEC [illegible] the claim [illegible] site. During our [illegible] inspection.

SITE [illegible]

Put in Wind file - DO NOT Pay Bill

DO NOT discuss

Thereafter, on October 20, FAEC was commissioned to write a completely different engineering report for the McIntush claim. That report was based on a site visit of October 18, 2005, and never disclosed the prior site visit. None of the previous observations were repeated, and many different observations completely at odds with the prior report were generated. Thereafter, the report found:

CONCLUSIONS

Based on the information that has been presented to FAEC and evidence gleaned during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusions concerning the damage to the structure:

- **The tree failures in the northwesterly direction are the result of the winds out of the southeast from the approaching hurricane.**
- **There appears to have been damage to the structure by wind as evidenced by missing shingles on parts of the roof structure. Damage to the second story floor and first floor ceilings was predominately caused by wind and intruding rainwater.**
- **The damage to the first floor walls and floors appears to be predominately caused by rising water from the storm surge and waves.**

On or about September 26, 2006, State Farm Adjuster Christy Sims commissioned a study by FAEC on the Mullins home at 6057 Pine Tree Drive, Kiln, MS.

Among the observations made by the engineers were that the structure had already been removed from the site, as required by FEMA, and that much of their analysis was based on photographs provided to the engineers by the homeowners:

SITE OBSERVATIONS

The following are the observations made during FAEC's inspection of the structure

- Upon approaching the property the house had been already removed from the site as required by FEMA

- From attached photographs provided by the insured, the entire house had been taken off from its support piers and came to a rest against the house across the street. The house had rotated about 180 degrees and its front was facing south. The porch area was about in line with the center of the street.

- No significant damage to the house was observable in the insured's photos, except for the contact point with the neighboring house across the street.

- According to the insured, the water had rose to 10 inches above the floor level at a neighboring residence close by. No water damage to the house could be appreciated from the photographs nor observed from the surroundings.

- The 24 inches high concrete block piers were in complete disarray. The blocks were not joined to each other nor anchored to the ground

- With very few exceptions, all the trees around the observable area were standing straight and with all their foliage remaining.

The report concluded that the damage was due primarily to wind, and not to flooding.

The report's conclusion section stated:

CONCLUSIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how these conditions affected the neighborhood area of the insured residence conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated

- FAEC has concluded that the primary and predominant cause of damage to the subject property was due to hurricane force winds. This is based on the displacement of the house and the absence of water damage to the same. However, this displacement was facilitated by the prior anchoring and supporting observed

This report was received by State Farm or its adjusters shortly after the time it was written. An invoice was generated by FAEC, and submitted to State Farm for payment. The location of the property, and the presence of a flood insurance policy (likely information not known at the time of the original survey by FAEC) made it necessary to change the report and its characterization of wind damage.

FAEC was directed to make a second report on the basis of its survey. On or about January 3, 2006, FAEC submitted a different report predicated on the same site visit of October 11, 2005, but not mentioning the prior report. The report did not appear to be a superseding report, nor was it a supplemental. Instead, it was a complete re-write of the original. This subsequent report was completely different from the first report in that the observations included:

- There was tree damage in the neighborhood with trees falling to the west northwest.
- There was shingle damage to houses nearby
- The owner of the trailer across the street, whose home was impacted by the insured's, indicated that the water had come up to the bottom of her trailer. This was estimated to be between 2 and 3 feet above grade
- The foundation for the insured's home consisted of concrete block piers about 2 feet above grade. No tie downs were observed, however one photograph furnished by the insured pictured, what appeared to be, a minimally effective tie down

In addition to omitting the information relative to trees and structures, and in addition to a complete re-write of the findings, the conclusion of the report stated a completely different finding than the report of October 11, 2005:

The report concluded that the damage was due to flood waters, saying:

CONCLUSIONS & OPINIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how those conditions affected the neighborhood area of the insured residence conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated

- **The tree failures in the northwesterly direction were the result of winds out of the southeast from the approaching hurricane.**
- **The damage to the interior of the house could not be determined as no evidence was available.**
- **The movement of the house across the street with minimal obvious wind damage is consistent with a buoyant force applied to the building by rising water allowing the wind to blow the house northwards until it reached an obstruction.**

It is stark evidence of fraud that the same engineering contractor took a look at the same property and relied on the information from the same site visit, and not only reached different evidentiary findings, it reached completely different conclusion on the

same physical evidence. The timing of the report, combined with the message on the note not to pay the invoice and not to discuss the existence of the prior engineering report is evidence of an ongoing conspiracy between State Farm and its engineering contractor to present false claims to the federal government.

This is the gestalt of the relators' claims against the defendants. In hundreds and perhaps thousands of cases in Mississippi, Alabama, Louisiana and Texas the defendants have responded to hurricane and homeowner's claims where there is flood insurance by concluding nearly every time that flood waters arising out of the storm surge, and not wind, caused the damages. Defendants have done this specifically to misallocate the burden of paying claims from their own insurance reserves (and from re-insurance) to the federal government. This is a direct charge on the US Treasury, ***Wright v. Allstate Ins. Co.***, 415 F.3d 384, 386-87 (5th Cir. 2005), and is the submission of a false claim based on false records.

A MATTER OF URGENCY

When civil lawyers began to take issue with the way that State Farm and Nationwide were paying claims (or more precisely, not paying claims), State Farm recognized that there was a risk that records associated with their conduct (particularly the engineering reports) could be subpoenaed or, in a worst-case scenario, seized. State Farm has taken steps that are extraordinary to protect itself.

Relators have been directed to shred materials in conflict, and State Farm has positioned locked shredding trash cans around its offices for the disposal of contradictory

information. Engineering reports are not kept with the claims, and nearly all reports have been seized from the adjusters and placed under lock and key so as to prevent discovery of the fraud.

Some reports, particularly those that might be seized by state courts or ordered produced by state courts have already been moved from Mississippi to Texas.[6] State Farm, among others, is engaging in an internal witch-hunt to determine who may be leaking information to attorneys. Relators' positions are in serious jeopardy if their status as relators is disclosed.

Relators are concerned that a majority of the documents that exist are being shredded by the Insurance companies, and that individual engineering firms are being given the same direction. A shredding company, "Shred-It", visited the State Farm offices on April 12, 2006 and shredded large amounts of documents. While it would be nearly impossible for even the most obsessive insurer to destroy all the conflicting reports and silence all the engineers, delay by the government in following up this information will likely result in the loss of data and make recovery of the funds more difficult.

Relators know and would testify by affidavit that information from the engineering firms is being sent by facsimile, by electronic means, and by U.S. Mail. Relators are also certain that telephonic communications between Lecky King and the principals at the engineering firms are likely ongoing in an effort to make sure that no information leaks out.

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[6] Of course, since an action under the False Claims Act includes the ability to serve process anywhere in the United States where a company does business, the tactic of moving these documents to a different jurisdiction will be ineffective against the United States Department of Justice.

Relators' main concern is that immediate action is necessary to prevent the additional wholesale shredding of documents by the Defendants in this matter.

WHO ARE THE RELATORS

Cori Rigsby and Kerri Rigsby are sisters who currently work for E. A. Renfroe, an adjustment company that leases its adjusters to the various insurance companies across the country. It specializes in providing adjusters to handle catastrophes by having personnel trained on State Farm and other insurers' equipment, policies, and procedures, and being able to provide them quickly when a catastrophe occurs.

Cori's job involves working with various insurers including Travelers, State Farm and Nationwide. Over the past eight years she has adjusted hurricane claims, tornadoes, and other various natural (and man-made) disasters. She started as an adjuster and is now paid $520 per day to provide services as a claims manager.

Kerri's position requires her to adjust claims for State Farm, and State Farm has been the only company that she has worked for. Her position, in all material respects, is identical to Cori's. Neither individual has any criminal background. Neither has financial skeletons in their closet. They are earnest and sincere relators who are blowing the whistle on practices they see as false and fraudulent.

SPECIFIC INSTANCES OF FRAUD

Personnel Involved In CAT Team Katrina

The following State Farm personnel were involved with adjusting Katrina loss claims. In the table below the name and position are set out, as well as the conduct chargeable to them and the content of any information they possess. Where so noted, the individual will have participated in that conduct.

Name	Position	Conduct/Knowledge
Alexis "Lecky" King	Co-CAT Team Coordinator	King is the State Farm Flood Insurance "guru" and she directed that adjusting be done to conform to the decision she made that claims would be denied as wind damage claims. King holds considerable knowledge with regard to information about State Farm's conduct, and has been heard to remark that for a payment of $2,000,000 she would be willing to speak with attorneys representing Katrina victims.
Richard "Kick" Moore	Co-CAT Team Coordinator	With King, Moore was the person in Gulfport claims office who oversaw the "water" portion of the claims adjustments relating to floods. He and King were involved in making the decision early on to get blanket engineering reports, and in later canceling that mandate. When it was necessary to "correct" these engineering reports, only he and King had access to the original engineering reports that were adverse to the final reports.
John Dagenhart	CAT Team Coordinator	In charge of the Biloxi (wind) office and also a CAT team coordinator. Engaged in the same conduct as Moore and King, although likely he engaged in less of this conduct since more of the claims in the Biloxi office dealt with wind rather than flood.
David Randel	Section Manager	As section manager for the CAT teams, Randall was the principal supervisor over Katrina claims. He was King, Moore and Dagenhart's boss and direct supervisor. He oversaw the adjusting of claims. He is one of only 12 – 15 section managers at State Farm.
David Haddock	Trainer	State Farm employee responsible for overseeing adjusters. His name appears on the fax letters sent to engineering firms recalling or canceling their engineering reports and directing them to

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		"send their investigation materials" to State Farm.
Lisa Wachter	Trainer	State Farm employee responsible for overseeing adjusters. Similar knowledge to David Haddock.
Ryan Murphy	Claims Manager	Oversaw claims at Gulfport. Currently assigned to mediation teams.
Anna Eaton	Claims Adjuster	Finance of Murphy. Murphy told her that the original engineering reports were scanned to the CSR program and then shredded.
Mark Drain	Team Manager	Assigned to the "high profile" claims where State Farm wanted to preserve relationships or prevent fallout.
Gary Clatterbuck	Team Manager (no longer in MS. Went back to TX after December)	Assigned to claims on Katrina, was outraged at how the process was handled, particularly at the claims and engineering report process. "Everything about this is just wrong!"
Mike Myers	State Farm Agent	Apparently had no flood insurance but backdated not only his own but also several other insurance applications to include flood coverage.
Felicia Palmer	State Farm Agent	Apparently knows about Myers' backdating.
Brenda Emmons	State Farm Aduster	Brenda has widely been thought to be the "mole" inside State Farm because Katrina has affected her significantly. She has appeared to suffer depression as a result of her work on Katrina, and is believed to be very disturbed by what she was required to do.

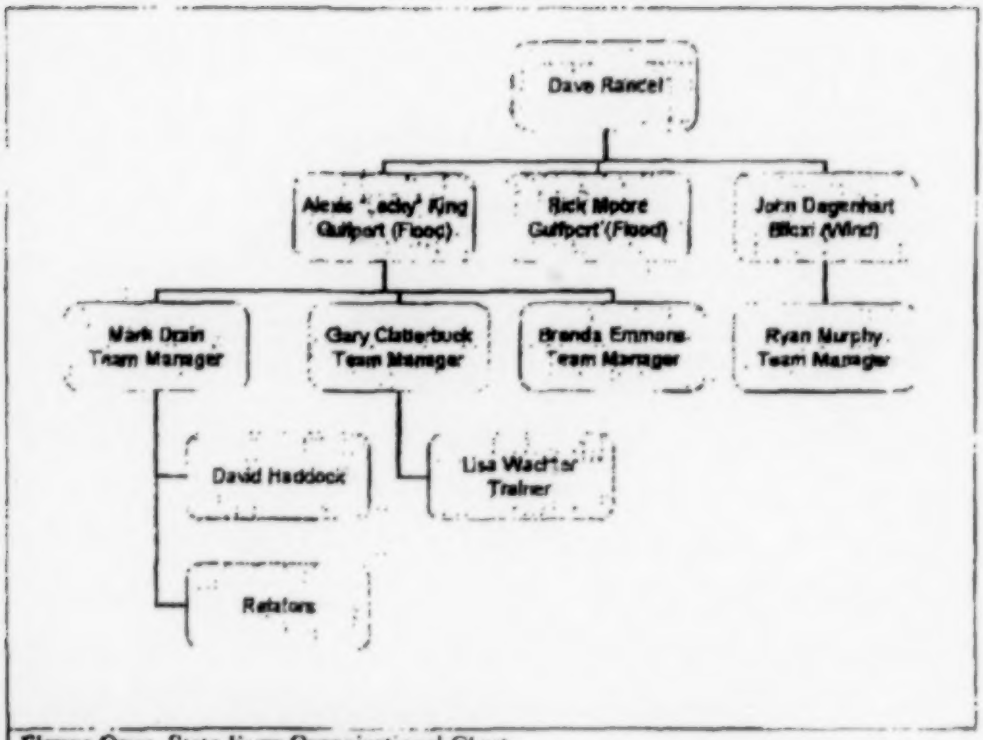

Figure One: State Farm Organizational Chart

How CAT Teams Worked In Prior Disasters

Catastrophe team adjusting is and always has been an "adjuster driven" process whereby adjusters are sent into the field and investigate and pay claims based on the damage they find. The only time additional assistance in the form of experts or engineers are engaged in most catastrophe claims is when there is extrinsic evidence of fraud.[7]

[7] For example, in one case adjusters thought that the "hail damage" they saw on a roof looked a lot more like marks made by a hammer and called in an engineer to investigate. Use of engineers prior to 2005 was rare.

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Beginning with Hurricane Ivan in 2004 State Farm began to use engineers, but the use of engineers was random and State Farm always went by whatever the engineer said. If the report said damage was caused by wind, the policy was paid 100% based on the engineer's report. Even if State Farm disagreed with its expert's reports, it stood behind the expert and paid the claim based on what the expert said. As Cori Rigsby said, the purpose of the CAT team was to "rush in, pay a lot of claims, and leave." State Farm did not follow their prior policies or their past experiences in adjusting Katrina claims.

How CAT Teams Worked in Katrina

Initial bad decisions about how to handle claims might well be blamed on the scope of the disaster. The number of claims was enormous, and the response by State Farm required them to bring in adjusters and train new adjusters for the process of claims under State Farm's policies. At the outset, however, State Farm made a decision that would quickly become unmanageable for it. It made a decision to do a forensic engineering analysis of three kinds of claims.

"Slabs" are insurance slang for complete losses of structures and contents that involve nothing on the ground but a cleanly-stripped foundation. "Popsicle Sticks" is slang for structures where only the pilings or a few beams are left standing. "Cabanas" is the industry colloquialism for houses where the roof and perhaps some interior walls remain, but the structure itself is a total loss. Almost immediately after being notified and dispatched to the Katrina disaster on September 2, 2005, Kerri and Cori were told that they were to order an engineering report on every loss that was a "Slab," "Popsicle Stick" or "Cabana."

There was one exception to this requirement. If the policy-holder had flood insurance, and if the policy-holder was willing to accept this payment as the payment in full for their losses, State Farm would offer to pay that amount without a site inspection and without an engineering report.

The Flaw In the Program

The immediate flaw in the "blanket engineering report" program became apparent within hours of the blanket engineering requests in Katrina. There was no coordination of how engineers (or even which firms) were assigned to claims.

At the outset, State Farm got a report from Haag Engineering that concluded that the majority of the damage in Mississippi was due to flood, and not to wind or rain. This conclusion was contained in a report, a copy of which is attached as an exhibit to this disclosure. That document became State Farm's (and on information and belief, Nationwide, Allstate and USAA's) bible when denying coverage under hurricane insurance on the basis of damage caused by flooding. Even though information copies were provided to the other consulting engineers, those engineers did not always adhere to the party line.

While Jade Engineering might take one house on a block, Haag might take another. Dreux Seghers might get the last house on the street. And while each of the engineering firms was provided with an analysis done by Haag[8], individual engineers approached claims differently, relied on different information in reaching their results,

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[8] This "analysis" became State Farm's bible and basis for denying the majority of the hurricane claims because it found that the majority of the damage was from flood, not from wind. This in spite of the fact that hurricane force winds preceded storm surge by at least five hours.

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and frequently (in the case of honest firms like Dreux Seghers) reached the conclusion that the majority of the damage was caused not by flood but by wind. See Figure 1 below.

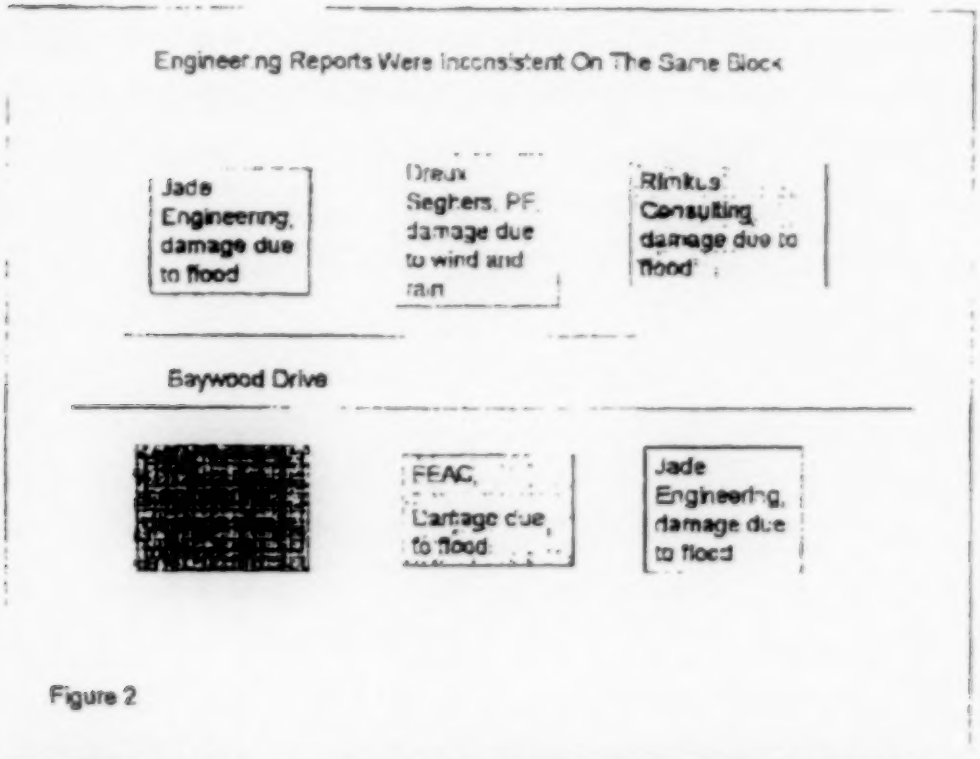

Figure Two showing how engineering reports gave different findings for cause on the same street. While some firms would change their reports when pressured, others, like Dreux Seghers, PE, refused, resulting in inconsistent determinations.

Alexis "Lecky" King from State Farm reached the conclusion that reports that differed substantially from those of Haag were to be considered suspect and were to be re-written or revised by the consulting engineer. She held bills and refused to pay them. While State Farm had routinely released engineering reports in the past to its policy

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holders, King now gave direction that the reports were not to be shared.[9] As noted earlier, scores of engineering reports were sent back to the engineers in order to get them re-written to coincide with State Farm's (and Lecky King's) view that these should all be flood damage claims.[10]

But the real flaw in the multiple engineer scenario manifested itself in case of Anna Vela. Vela is a Biloxi resident who lived on Baywood Drive and whose loss was first assigned to Dreux Seghers for analysis. The engineering analysis determined that the primary loss was due to wind damage. This was provided to Mark Drain at State Farm who passed it along to King for review. King told Drain that the engineer was "a moron" and directed him to "tell him to revise this." Shortly thereafter King left for a short time, and Drain had to make the determination, as a team manager, whether to pay the claim on the basis of the engineering report, or get a new report. He elected to pay the claim. State Farm paid out policy limits on the Vela claim.

Yet, other houses on the same street were determined by Haag, FAEC, and Exponent to be "flood" related, and those claims were paid only under a flood policy or denied.

In November the flaw was seen as what it was, a tool for inconsistent adjusting, and State Farm trainers David Haddock and Lisa Wachter directed adjusters not to get any further engineering reports on Slabs or Popsicle-Sticks. In addition, where

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[9] This was to prevent the situation where policy holders would get the initial report reflecting wind damage and rely on that before the "revised" report could be sent.

[10] Relators have memory of seeing a stack of engineering reports on Lecky King's desk that was more than one foot tall. These reports concluded that there was not flood damage, and they needed to be dealt with by King, who would instruct adjusters not to pay the claim until a new report would be issued by the engineer. That is why King placed the note in the McIntosh file to the effect that the prior engineering report would not be paid for, and would not be discussed.

SMPDI-000138

engineering reports had been requested, they sent a fax to the engineers directing them to cancel the request, send along the investigation materials and not write a report. If a report had already been written, they were directed to send it, as well. A copy of this facsimile is found at Exhibit C.

The Engineering Reports

As painstakingly documented above, engineering reports were solicited by blanket authorization, even though these reports would generate invoices from the engineers to the tune of $1,500 to $3,000.[11] State Farm apparently looked at it from the standpoint of preferring to pay $1,500 to an engineer instead of paying $200,000 to an insured. Attached as Exhibit A is the engineering roster from State Farm Insurance that shows the name of the engineer, the date the claim was assigned, the claim number, the address, the inspection date, and the date a report was received by State Farm.[12] As can be seen by the report, certain engineers had a very high percentage of cancelled reports.[13] Seghers was hired on only 79 claims. 32 of those were cancelled or listed as never received or "peer reviewed." Seghers, who refused to play ball with State Farm, had 40% of its assignments cancelled. Similarly Engineering Design and Testing, a firm that refused to play ball with State Farm, received only 39 assignments and had 10 cancelled

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[11] This was a win-win situation for State Farm. The engineering reports, where they concluded that the damage was caused by flood, saved State Farm thousands. Where the policy holder was lucky (or unlucky) enough to have flood coverage, the costs of the engineering report became a part of the flood claim adjustment costs and were passed along to the FIA through the NFIP's mechanism for paying adjusters.

[12] In many cases the "date received" is inaccurate. Some of the reports were received, but not acknowledged. Others were cancelled.

[13] Relators have heard that Dreux Seghers, PE, who is not named as a defendant in this action, was approached by State Farm to change reports. Seghers stood by his reports early on where he concluded the source of damage was wind. Seghers did not receive an assignment from State Farm after November 2005. Those assignments that he did receive in October and November were cancelled at a significantly higher rate than other engineering firms.

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(25%). Exponent Failure Analysis, a firm that did engage in re-writing of reports at State Farm, had 214 assignments and only 17% of those were cancelled by State Farm. Similarly low cancellation rates will be present for the other engineering defendants in this case. See Exhibit A.

Lecky King, Rick Moore, or their designees and employees directed the engineering firms to change any report where the cause of the damage was not flood. At one point relators were in a meeting with King who was reviewing engineering reports. She tossed one of the reports on to the center of the conference table and announced that the engineer must have known, or been related to, one of the persons on the street because the report did not conclude that the cause was flood. As such she said that this report would need to be re-written.

King would pull the reports that did not match her predetermined expectations of flood damage and would direct that they be revised. At one time the pile of reports that required revision was at least one foot tall. King and Moore sent an email (See Exhibit E.) that indicated to everyone that the original engineering reports were to be kept under lock and key, and that only she and Rick Moore had access to these reports.

Once the reports were re-written, the original reports were segregated and Relators believe that all original reports that were rewritten were or are in the process of being destroyed by State Farm at the direction of King and Moore.

State Farm, however, has an accounting system that tracks the reports and the dates assigned. The date an invoice was submitted is tracked along with the date paid. Since invoices were not paid until reports were re-written, a delay of more than 4 or five

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days between the invoice and the payment would be indicative of a claim that was re-written to conform to the flood expectations.

Relators believe that Seghers, among others, would talk frankly with federal investigators about how he was essentially removed from assignments because he refused to re-write reports, as he has confessed this event to family members of the Relators.

The Adjustment Expenses

One of the many problems with the way the Flood Insurance Program is laid out is the requirement under the NFIP that "Write Your Own" ("WYO") insurance companies adjust the claims. Because the claims adjustment expenses ($1,500 to $3,000 for engineering reports and as much as $9,000 for individual independent adjusters) are passed along to FEMA and the Flood Insurance Administrator (FIA) under the regulations governing the NFIP, the WYO companies have a double incentive to misallocate a loss to flood insurance. First, the responsibility to pay the claim is borne by the federal government. This reduces the burden on the defendant by reducing the amount of reserves required to pay the claims. Secondly, the adjustment expenses are allocated to the flood claim. State Farm and the other defendants are not only allowed to push off the fixed costs of the claim, but also are able to push off the adjustment expenses.

Because the adjustment expenses are borne by FEMA under the program, State Farm gave direction initially to the adjusters that if they calculated a flood insurance claim and did not "hit the limits" that they were to recalculate the claim until such time as they did "hit the limits." This is not simply a desire to be generous with someone else's

money, nor is it a desire to "be fair" to the policy holder. Instead, it is a concerted effort to maximize profits by maximizing the amount of the flood insurance claim. If minimal losses are attributable to a flood insurance policy (for example, a $40,000 payment under flood insurance), the payment to State Farm for adjusting expenses is much smaller ($750). If coverage is maximized ($250,000 for structure and $100,000 for contents) then the adjusting costs charged by the independent adjusting firms ($7,000) are added to the costs of engineering reports ($1,500 to $3,000) and these costs, with some addition for overhead and other adjusting costs borne by State Farm, are all passed along to FEMA and the FIA. State Farm and other defendants make additional money by not only avoiding a charge against their reserves, but also by having all their claims adjustment expenses paid for by the federal government.

State Farm used a computer program called "XACT TOTAL" to calculate the flood claims and hit policy limits. The program permitted the agent to put in the square footage and amenities to "rebuild" the home. Adjusters were instructed to "hit the limits and if you haven't hit the limits on flood, go back and do it again until you do." The program was first developed for "slabs" but was later used for "cabanas" and other structures without total losses. One of the relators witnessed five houses where only four feet of mud was in the elevated house. There was no damage to roof, siding, and other structural elements. The house was submitted as a total flood loss (to hit the limits) using the XACT TOTAL software. State Farm continued this program until "Flood Calculator" was developed.

SMPD1-000142

The Backdating of Policies

State Farm Agent Mike Myers was quoted by several individuals in the Biloxi area in the hours immediately after the storm as saying he did not have flood insurance. Within days this lack of insurance was transformed into a windfall by virtue of a backdated policy. Although relators do not have direct knowledge of how and when Myers was able to work the system to backdate flood coverage, it is known that Myers and several of his key clients and friends were able to get flood coverage in the days immediately after the storm.

Felicia Palmer is another Mississippi-based State Farm agent who did not have flood insurance and who suffered a complete loss on her business structures. She was not paid through State Farm for her loss. Myers, however, was able to get paid, even though he had told people he did not have flood insurance. Palmer is reported to be very angry. Relators believe that she will discuss the backdating allegations with investigators.

Relators also believe that the only way this could have been accomplished by Myers is if Myers has friends or associates in the Underwriting department of State Farm because the backdating of paperwork should ordinarily have raised red flags at State Farm and set off internal controls meant to catch exactly this type of situation.

Grant Money

As a response to the devastation of the Gulf Coast, Congress passed and the president signed in late 2005 a flood grant program. The program requires that a person have homeowners insurance, live in an area that is not a flood zone, and have structure losses due to a flood during Katrina.

The program will pay up to $150,000 (reduced by amounts already paid from other sources) for damages to structures during Katrina.

During the course of its post-Katrina adjusting, State Farm has encouraged homeowners to apply for these grants, and has facilitated such action. In a recent case the homeowner was entitled to payments under both contents and structure coverage. In mediation, State Farm transferred funds from its "A" (structure) coverage to its "C" (contents) coverage so that the homeowner would be entitled to a larger amount of grant money. The homeowner would not have been entitled to the contents value ordinarily. The homeowner was entitled to more money under the structural coverage. By transferring money from the structure to the contents, State Farm colluded with its insured to allow the insured to submit a larger amount for the grant.

WHAT EVIDENCE EXISTS OF THE FRAUDULENT CONDUCT

Relators' Declarations

Relators have examined the complaint and have attested to the fact that the information in the complaint is true and accurate to the best of their information and belief. The information in this disclosure and in the Complaint is what the Relators would testify to if placed under oath.

Relators have a great deal of information, and have kept a journal of questionable happenings at State Farm since the inception of the Katrina event. They have a wealth of knowledge about the persons involved, and would be a good source for investigators to speak with about the underlying fraud.

Documents

Many of the documents involved in this fraud (especially the original engineering reports) have either been shredded or are going to be shredded in days absent quick and dispositive action from the United States Attorney's office.

There are locked filing cabinets in the offices of King and Moore which contain information that establishes the fraud. Individual defendants and, where applicable, witnesses (Seghers, for example) will likely testify to the "rewrite your report to get paid" scam that State Farm enforced against the engineers.

Original invoices generated by the billing and accounting systems of the individual engineering defendants will also support the fact that multiple reports were written. There are likely computer records that show that two reports were written. Individual employees of these engineering firms are also likely to be willing to testify to the pressure brought to bear on them to change engineering reports.

Computer Evidence

State Farm maintains distributed servers in Jacksonville, Florida and Birmingham, Alabama. Disaster servers are, on information and belief, located in Bloomington, IN, for backup purposes.

Servers in Birmingham are dedicated to adjusting claims in the Mississippi and Alabama areas, while Louisiana and Texas claims are adjusted out of Austin, TX, where yet another server exists.

Documents, photographs, claims logs, adjuster logs, computations and other data associated with the claim are maintained in State Farm's *CSR Reflections* software. CSR is a DOS-based computer program that State Farm still uses to track claims. Information about multiple reports and claims are likely documented in the hundreds of adjuster logs maintained on *CSR Reflections*. Search warrants or subpoenas should be directed to both the CSR system as well as the Outlook email system maintained and used with State Farm.

Relators have produced some emails, including those that are relevant to the fraud issues here. Additional emails between King and her superiors, as well as other State Farm management personnel, are likely to be dispositive with respect to the knowledge of superiors at State Farm regarding the scope of the fraud.

FEMA Flood Map

One of the more dispositive pieces of information in this case is the flood map put out by FEMA, the agency responsible for managing the Flood Insurance Program. Copies of that map show very small areas that were actually flooded during Katrina. In spite of this determination by the parent agency of the Flood Insurance Administrator, Katrina victims were denied coverage and were paid on flood insurance claims over a much wider area than FEMA determined to be flooded.

SMPD1-000146

Figure Three: The FEMA flood map

SMPD1-000147

DOCUMENTS AND EVIDENTIARY MATERIAL

The following documents and pieces of evidence are submitted with this disclosure.

Exhibit	Description
A	Engineers Roster – CAT PI
B	Haag Report
C	Craig Balius Claim Forms
D	Balius Flood Claim Worksheet
E	Emails from State Farm regarding Engineering Reports
F	Other Emails from State Farm
G	Relators Declarations

Respectfully submitted,

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SMPD1-000148

CERTIFICATE OF SERVICE

The undersigned certifies that on this 24th day of April, 2006, a copy of the foregoing Complaint and the required disclosure statement was served on the individuals below by first class mail, certified, return receipt requested to Dunn O. Lampton, US Attorney's Office, 188 E. Capitol St., Suite 500, Jackson, MS, 39201, and by placing the same in the United States Mail, first class postage affixed, certified, return receipt requested, and addressed to Alberto Gonzales, Esq., at the address below:

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_____
Attorneys for Relators

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AND /
IEFS

Supreme Court, U.S.
FILED
JUL 29 2016
OFFICE OF THE CLERK

No. 15-513

IN THE

Supreme Court of the United States

STATE FARM FIRE AND CASUALTY COMPANY,

Petitioner,

v.

UNITED STATES, EX REL. CORI RIGSBY, ET AL.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

JOINT APPENDIX

VOLUME III OF III

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From: Beth Jones <bethjones@scruggsfirm.com>
Sent: Monday, September 18, 2006 2:25 PM
To: 'Joseph Treaster' <treaster@nytimes.com>
Subject:
Attach: Final Evidentiary.pdf

INTRODUCTION

Cori Rigsby and Kerri Rigsby are employees of E. A. Renfroe, a company that provides claims adjustment services to insurance companies in disaster situations. They have been loyal employees for the past eight years. In the past eight years Cori has handled claims on the catastrophe teams of Travelers, Nationwide and State Farm. Kerri has handled claims for State Farm's catastrophe team. Until Katrina, the monster storm that literally wiped out several Mississippi communities, Kerri and Cori had always been proud to be associated with State Farm and Nationwide, even though they were not direct employees of State Farm.[1] With Katrina, Cori, Pat and Kerri saw a sea change in the way that claims were handled by State Farm and Nationwide with respect to how claims were adjusted with respect to flood insurance. The relators were shocked and horrified that the company that had previously dealt very fairly with its customers was now engaging in wholesale fraud both on policy holders and on the federal government. This False Claims Act case arose out of that experience.

This Evidentiary Disclosure provides an overview of the National Flood Insurance Program (NFIP) as well as a brief look at storm surge and the respective liabilities of insurers under the NFIP. It discloses the concrete existence of two separate instances where homeowners claims were fraudulently misallocated to flood insurance

[1] Although neither Kerri nor Cori are State Farm employees, customers of State Farm would not know this because the relators are given cards identifying them as State Farm employees, are provided with notebook computers for logging their claims-related activities, and are issued jackets with State Farm's name on them. They are also issued a claims identifier number that identifies them as an adjuster within the State Farm system.

claims at the cost of both the homeowner and the federal government. This grew out of the total control that State Farm had in adjusting its losses.[2]

OVERVIEW

Insurers Pushed Losses Onto The NFIP In Order To Protect Reserves.

This is a False Claims Act case that involves the National Flood Insurance Program, (NFIP) a federal insurance program that is managed by the Federal Emergency Management Agency, (FEMA). FEMA is the only entity in the United States that underwrites flood insurance. Although FEMA underwrites flood insurance, it does not sell directly to the public, but instead, operates through a series of independent insurance companies. At least two of these companies (State Farm and Nationwide), and on information and belief many more (USAA, Allstate), are engaged in a concerted effort to re-adjust losses in such a way that, where applicable, the payment for claims that would normally fall under the company's own homeowner's or hurricane coverage is instead transferred to the NFIP. The misallocation and transfer of losses from State Farm and Nationwide to the federal government was achieved through the use of purportedly "independent" professional engineers who were asked to conduct forensic analyses of the losses. Whenever a loss report from an engineer identified "wind" as the source of the damage, State Farm directed the engineers to recharacterize the damage as flood damage,

---

[2] Incredibly, the NFIP puts the fox squarely on guard duty for the hen house because it allows the insurers to adjust the losses in conjunction with the losses attributable to homeowners insurance. As a result, as shown below, the insurer has a strong incentive to reclassify damage as flood rather than wind.

and if an engineering firm refused, their contracts were cancelled and their services were never retained again.

Although the present scope of the fraud is unknown, it is known that in Mississippi alone State Farm has adjusted upwards of $1.2 billion in losses from Hurricane Katrina. If only ten percent of those claims are flood insurance claims, the scope of the fraud with State Farm alone could exceed $120,000,000. Relators information, obtained by direct work with State Farm and Nationwide Insurance, indicates that both insurers have a planned, systematic response to claims-handling that directs that claims be shuffled off to FEMA whenever and wherever possible. This system is operated by directing supposed independent contracting engineering firms to always find that flood, and not wind, caused the damage when doing a source investigation on the nature of the claim.

How Flood Insurance Claims Work

In most cases under the NFIP the federal government only acts as the funding source for paying and underwriting claims while the coverage is sold through private insurance companies. Although the companies sell the policies, the policy itself is a standard document drafted by FEMA. Federal regulations require adjustment according to federal standards.

When there is a claim under a Standard Flood Insurance Policy ("SFIP") the insurance company is required to adjust the claim in accordance with these federal regulations. The applicable regulation, 44 CFR § 62.23(d) provides: "A WYO Company issuing flood insurance coverage shall arrange for the adjustment, settlement, payment

and defense of all claims arising from polices of flood insurance it issues under the [National Flood Insurance Program], based on the terms and conditions of the Standard Flood Insurance Policy." In acting as the claims adjuster for the government, the WYO companies are fiscal agents of the government and payments on SFIP claims are a direct charge on the United States Treasury. See ***Wright v. Allstate Ins. Co.***, 415 F.3d 384, 386-87 (5th Cir. 2005). To the extent that an insurer presents a claim for reimbursement under the SFIP to the federal government, that claim is presented to an officer or agent of the United States Government for payment, and any false claims are actionable under the False Claims Act.

Whenever an insurer like State Farm Insurance or Nationwide Insurance has sold a homeowner's policy or hurricane policy (one that the insurance company directly underwrites), and also issues a flood insurance policy under the NFIP, the flood insurance policy is never written for an amount that is larger than the homeowner's insurance policy or the accompanying hurricane insurance policy. More importantly, coverage is capped at $250,000 for structures and $100,000 for contents.

Under the NFIP rules and regulations, the insurance company that writes the companion flood insurance policy must adjust both the homeowners and the flood insurance claim. In doing so, there is a built-in conflict of interest. Because it adjusts the loss, and maintains control over the adjusting process (being solely responsible for gathering information in order to adjust the claim), the insurance company has an incentive to charge off **all damage** to the government as flood damage because when they do so, the government, acting through FEMA, pays the entire claim, thereby relieving the company of its obligation under its own policy of insurance. The only

situation where flood and homeowners or hurricane policies collide is in the area of hurricane damage.[3]

State Farm has, for some time, adopted the view that Flood Insurance is a superseding coverage in that if there is damage from wind and from flood, the flood policy is paid and the homeowner's insurance is never tapped for damages. State Farm has colloquially referred to this doctrine as the doctrine of concurrent causation. So, if a homeowner had only $40,000 in flood coverage, and $150,000 in homeowners or hurricane insurance, and suffered a total loss of their property from a hurricane, State Farm would offer to pay the $40,000 in flood coverage, and once paid, would disallow any claim on the homeowners or hurricane policies because in their view if there was flood damage it took precedence over the wind damage, even though the wind may have actually caused the damage to the structure. Thus State Farm has always viewed flood coverage as a mechanism to reduce the amount paid from its own reserves. If flood and some other cause worked to destroy a structure, the doctrine of concurrent causation meant that only the flood coverage was paid.[4]

The NFIP Definition of Flood

To reduce the potential for misallocation of claims, "flood" is a term narrowly defined by statute and rule. 42 USC § 4121(1) states "the term "flood" shall have *such meaning as may be prescribed in regulations of the Director*, and may include inundation

[3] For example, in the case of a tornado or hail-related loss under a homeowners policy, losses related to water damage would be clearly incidental to the claim, and even though a policy might include a flood loss provision under the NFIP, the claim could not be easily disguished because the primary means of damage is wind or hail. But in the case of a hurricane, particularly in coastal areas with a storm surge, a sizeable amount of water may be involved. Irrespective of whether the damage resulted from waves and water or wind, the insurance company can hide a loss under the NFIP because both wind and water are associated with a hurricane.

[4] This doctrine is not codified in the NFIP statute nor is it codified in the NFIP regulations.

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from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge;"

The director has provided the following definition of flood:

Flood, as used in this flood insurance policy, means:

> A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (one of which is your property) from:
>
> Overflow of inland or tidal waters,
>
> Unusual and rapid accumulation or runoff of surface waters from any source,
>
> Mudflow.
>
> Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined in A.1.a. above.

44 CFR Pt. 61, App. A(1)

A. Storm Surge Versus Flooding

Most of the flooding occurring in coastal areas of Mississippi due to the hurricane was associated with storm surge. This is a poorly understood phenomenon in most insurance companies[5].

Storm surge is simply water close to the hurricane's eye that is sucked upward by the intense low pressure inside the storm's eye. As the storm's eye moves toward shore, the depth of the ocean water decreases as the storm moves forward. The mound of water sucked upward by the eye's low pressure is pushed toward the shore by the force of the

---

5 Meteorologists and FEMA understand the process of storm surge quite well, and identified only a very few areas as associated with storm surge and flooding during Katrina. Insurance companies, however, attributed an inordinate amount of damage to this phenomenon.

winds swirling around the storm. This advancing surge combines with the normal tides to create the hurricane storm tide, which can increase the mean water level 15 feet or more. In addition, wind driven waves are superimposed on the storm tide. This rise in water level can cause severe flooding in coastal areas, particularly when the storm tide coincides with the normal high tides. Because much of the United States' densely populated Atlantic and Gulf Coast coastlines lie less than 10 feet above mean sea level, the danger from storm tides is tremendous.

In general, the more intense the storm, and the closer a community is to the right-front (or northeast) quadrant, the larger the damage related to storm surge. However, since the surge comes ashore as the eye wall moves onto land, storm surge follows by four to six hours after the arrival of hurricane force winds. Thus flooding from storm surge would normally be seen only where the hurricane made landfall, and only in low-lying coastal areas.

During Hurricane Katrina, FEMA identified only small parts of the Mississippi coast as flood damaged, generally around Bay St. Louis. The remainder was identified as hurricane damage. In most locations where defendants have written flood insurance and collected premiums under the NFIP, the companies have also written homeowners and hurricane insurance. Under the arrangement between the company and FEMA, (44 CFR Pt. 62, App. A), the government requires that when the company writes coverage for other perils and flood insurance, that one adjuster be used.

Based on relator's observations, and upon direction received from the defendants, beginning at about the time the first claims began to be submitted by adjusters for Hurricane Katrina, defendant made a corporate decision to misdirect and misallocate

claims from those of hurricane or homeowner's coverage (which it would be required to pay from its reserves or reinsurance) to flood claims that could be submitted and paid directly from the United States Treasury.

Defendant State Farm, and on information and belief, Nationwide Insurance Company, USAA, and Allstate all directed their employee adjusters and independent contractor adjusters to show flood damage whenever and wherever there was any amount of water damage, and to adjust the claim as flood insurance rather than hurricane insurance even though the primary mechanism for damage was wind, not flood waters. Where wind, or wind and water, made a structure unsalvageable, the claims were misallocated into flood insurance claims because flood insurance claims were paid by the US Treasury and did not come out of the company's reserves.

This misallocation of claims has resulted in significant damage to the federal treasury. Not only were the claims themselves paid out of federal funds, each loss was adjusted so as to "hit limits" so that as many dollars as possible would be charged against the NFIP. This because the larger the value of the claim, the larger the reimbursement for adjusting that claim. The cost of adjustment ($7,000 or more on a policy limits claim) is passed along to the federal government as a cost of adjustment.

Relators are aware of at least two specific instances where Defendant State Farm has engaged in such behavior. Worse, State Farm, aware that it has engaged in conduct that is false and fraudulent, is taking extraordinary steps to protect itself by shredding documents and hiring document shredding companies to dispose of documents at its Mississippi offices. The examples that follow are derived from Relators' personal knowledge.

On October 4, 2005, Insurance Adjuster Cody Perry issued an assignment to defendant Forensic Analysis Engineering Corporation (FAEC) for the purpose of having FAEC determine the nature of the destruction of the McIntosh property located at 2558 S. Shore Dr., Biloxi, MS.

FAEC carried out the assignment on October 7, 2005. The firm did a site inspection and reached conclusions based on the inspection. It concluded that the damage that occurred to the policy holder's home at the time of the hurricane was due principally to wind, and not to water. That report was dated October 12, 2005. The report said:

CONCLUSIONS

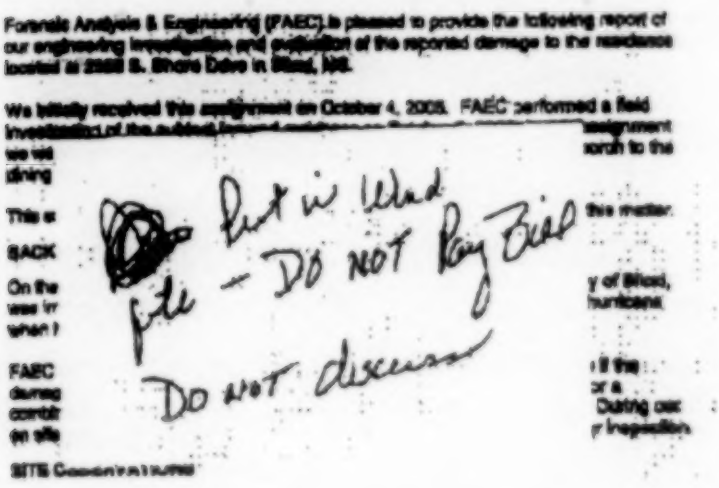
Based upon the information that has been presented to FAEC and evidence gleaned during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusion concerning the damage to the structure.

- The tree failures in the northwesterly direction are the result of the winds out of the southeast from the approaching hurricane.
- The roof, door, carport, and window damage was caused by wind and wind driven debris.
- It is FAEC's opinion that the interior damage of the structure is primarily the result of the failure of the windows, walls, and doors due to wind.

The conclusions and opinions presented in this report are based on the results of FAEC's field investigation of the subject residence, as well as our analysis of the available wind and localized water level data and upon all of the other associated information that we have gathered during the course of our investigation efforts to date. If additional information or facts become available which materially affect these stated conclusions and opinions, then, FAEC reserves the right to amend or change its opinions and conclusions as needed.

This report never became part of the permanent record of the McIntosh claim because it was recognized as contrary to the direction given to State Farm adjusters. On information and belief, Alexis "Lecky" King, a State Farm Insurance supervising adjuster

(and State Farm's guru on Flood Insurance) wrote the following note on the report: "Put in Wind file – DO NOT pay bill. Do Not Discuss" A copy of that note is shown below:


Forensic Analysis & Engineering (FAEC) is pleased to provide the following report of our engineering investigation and evaluation of the reported damage to the residence located at 2888 S. Shore Drive in Biloxi, MS.

We initially received this assignment on October 4, 2005. FAEC performed a field investigation of the subject [illegible] assignment we [illegible] forth to the [illegible] during

This w [illegible] this matter.

BACK

On the was in when I [illegible] of Biloxi, hurricane.

FAEC during [illegible] on site [illegible] of the [illegible] During our [illegible] inspection.

SITE CONDITIONS

Put in Wind file – DO NOT Pay Bill

Do not discuss

Thereafter, on October 20, FAEC was commissioned to write a completely different engineering report for the McIntosh claim. That report was based on a site visit of October 18, 2005, and never disclosed the prior site visit. None of the previous observations were repeated, and many different observations completely at odds with the prior report were generated. Thereafter, the report found:

CONCLUSIONS

Based on the information that has been presented to FAEC and evidence gleaned during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusions concerning the damage to the structure:

- The tree failures in the northwesterly direction are the result of the winds out of the southeast from the approaching hurricane.
- There appears to have been damage to the structure by wind as evidenced by missing shingles on parts of the roof structure. Damage to the exposed story floor and first floor ceilings was predominately caused by wind and intruding rainwater.
- The damage to the first floor walls and floors appears to be predominately caused by rising water from the storm surge and waves.

On or about September 26, 2006, State Farm Adjuster Christy Sims commissioned a study by FAEC on the Mullins home at 6057 Pine Tree Drive, Kiln, MS.

Among the observations made by the engineers were that the structure had already been removed from the site, as required by FEMA, and that much of their analysis was based on photographs provided to the engineers by the homeowners:

SITE OBSERVATIONS

The following are the observations made during FAEC's inspection of the structure:

Upon approaching the property the house had been already removed from the site as required by FEMA.

- From attached photographs provided by the insured, the entire house had been taken off from its support piers and came to a rest against the house across the street. The house had rotated about 180 degrees and its front was facing south. The porch area was about in line with the center of the street.
- No significant damage to the house was observable in the insured's photos, except for the contact point with the neighboring house across the street.
- According to the insured, the water had rose to 10 inches above the floor level at a neighboring residence close by. No water damage to the house could be appreciated from the photographs nor observed from the surroundings.
- The 24 inches high concrete block piers were in complete disarray. The blocks were not joined to each other nor anchored to the ground.
- With very few exceptions, all the trees around the observable area were standing straight and with all their foliage remaining.

The report concluded that the damage was due primarily to wind, and not to flooding.

The report's conclusion section stated:

CONCLUSIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how these conditions affected the neighborhood area of the insured residence conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated:

- FAEC has concluded that the primary and predominant cause of damage to the subject property was due to hurricane force winds. This is based on the displacement of the house and the absence of water damage to the same. However, this displacement was facilitated by the poor anchoring and supporting observed.

This report was received by State Farm or its adjusters shortly after the time it was written. An invoice was generated by FAEC, and submitted to State Farm for payment. The location of the property, and the presence of a flood insurance policy (likely information not known at the time of the original survey by FAEC) made it necessary to change the report and its characterization of wind damage.

FAEC was directed to make a second report on the basis of its survey. On or about January 3, 2006, FAEC submitted a different report predicated on the same site visit of October 11, 2005, but not mentioning the prior report. The report did not appear to be a superseding report, nor was it a supplemental. Instead, it was a complete re-write of the original. This subsequent report was completely different from the first report in that the observations included:

- There was tree damage in the neighborhood with trees falling to the west northwest.
- There was shingle damage to houses nearby.
- The owner of the trailer across the street, whose home was inspected by the insured's, indicated that the water had come up to the bottom of her trailer. This was estimated to be between 2 and 3 feet above grade.
- The foundation for the insured's home consisted of concrete block piers about 2 feet above grade. No tie downs were observed, however one photograph furnished by the insured pictured, what appeared to be, a minimally effective tie down.

In addition to omitting the information relative to trees and structures, and in addition to a complete re-write of the findings, the conclusion of the report stated a completely different finding than the report of October 11, 2005:

The report concluded that the damage was due to flood waters, saying:

CONCLUSIONS & OPINIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how these conditions affected the neighborhood area of the insured residence conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated:

- The tree failures in the northwesterly direction were the result of winds out of the southeast from the approaching hurricane.
- The damage to the interior of the house could not be determined as no evidence was available.
- The movement of the house across the street with minimal obvious wind damage is consistent with a buoyant force applied to the building by rising water allowing the wind to blow the house northwards until it reached an obstruction.

It is stark evidence of fraud that the same engineering contractor took a look at the same property and relied on the information from the same site visit, and not only reached different evidentiary findings, it reached completely different conclusion on the

same physical evidence. The timing of the report, combined with the message on the note not to pay the invoice and not to discuss the existence of the prior engineering report is evidence of an ongoing conspiracy between State Farm and its engineering contractor to present false claims to the federal government.

This is the gestalt of the relators' claims against the defendants. In hundreds and perhaps thousands of cases in Mississippi, Alabama, Louisiana and Texas the defendants have responded to hurricane and homeowner's claims where there is flood insurance by concluding nearly every time that flood waters arising out of the storm surge, and not wind, caused the damages. Defendants have done this specifically to misallocate the burden of paying claims from their own insurance reserves (and from re-insurance) to the federal government. This is a direct charge on the US Treasury, ***Wright v. Allstate Ins. Co.***, 415 F.3d 384, 386-87 (5th Cir. 2005), and is the submission of a false claim based on false records.

A MATTER OF URGENCY

When civil lawyers began to take issue with the way that State Farm and Nationwide were paying claims (or more precisely, not paying claims), State Farm recognized that there was a risk that records associated with their conduct (particularly the engineering reports) could be subpoenaed or, in a worst-case scenario, seized. State Farm has taken steps that are extraordinary to protect itself.

Relators have been directed to shred materials in conflict, and State Farm has positioned locked shredding trash cans around its offices for the disposal of contradictory

information. Engineering reports are not kept with the claims, and nearly all reports have been seized from the adjusters and placed under lock and key so as to prevent discovery of the fraud.

Some reports, particularly those that might be seized by state courts or ordered produced by state courts have already been moved from Mississippi to Texas.[6] State Farm, among others, is engaging in an internal witch-hunt to determine who may be leaking information to attorneys. Relators' positions are in serious jeopardy if their status as relators is disclosed.

Relators are concerned that a majority of the documents that exist are being shredded by the Insurance companies, and that individual engineering firms are being given the same direction. A shredding company, "Shred-It", visited the State Farm offices on April 12, 2006 and shredded large amounts of documents. While it would be nearly impossible for even the most obsessive insurer to destroy all the conflicting reports and silence all the engineers, delay by the government in following up this information will likely result in the loss of data and make recovery of the funds more difficult.

Relators know and would testify by affidavit that information from the engineering firms is being sent by facsimile, by electronic means, and by U.S. Mail. Relators are also certain that telephonic communications between Lecky King and the principals at the engineering firms are likely ongoing in an effort to make sure that no information leaks out.

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[6] Of course, since an action under the False Claims Act includes the ability to serve process anywhere in the United States where a company does business, the tactic of moving these documents to a different jurisdiction will be ineffective against the United States Department of Justice.

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Relators' main concern is that immediate action is necessary to prevent the additional wholesale shredding of documents by the Defendants in this matter.

WHO ARE THE RELATORS

Cori Rigsby and Kerri Rigsby are sisters who currently work for E. A. Renfroe, an adjustment company that leases its adjusters to the various insurance companies across the country. It specializes in providing adjusters to handle catastrophes by having personnel trained on State Farm and other insurers' equipment, policies, and procedures, and being able to provide them quickly when a catastrophe occurs.

Cori's job involves working with various insurers including Travelers, State Farm and Nationwide. Over the past eight years she has adjusted hurricane claims, tornadoes, and other various natural (and man-made) disasters. She started as an adjuster and is now paid $520 per day to provide services as a claims manager.

Kerri's position requires her to adjust claims for State Farm, and State Farm has been the only company that she has worked for. Her position, in all material respects, is identical to Cori's. Neither individual has any criminal background. Neither has financial skeletons in their closet. They are earnest and sincere relators who are blowing the whistle on practices they see as false and fraudulent.

SPECIFIC INSTANCES OF FRAUD

Personnel Involved In CAT Team Katrina

The following State Farm personnel were involved with adjusting Katrina loss claims. In the table below the name and position are set out, as well as the conduct chargeable to them and the content of any information they possess. Where so noted, the individual will have participated in that conduct.

Name	Position	Conduct/Knowledge
Alexis "Lecky" King	Co-CAT Team Coordinator	King is the State Farm Flood Insurance "guru" and she directed that adjusting be done to conform to the decision she made that claims would be denied as wind damage claims. King holds considerable knowledge with regard to information about State Farm's conduct, and has been heard to remark that for a payment of $2,000,000 she would be willing to speak with attorneys representing Katrina victims.
Richard "Rick" Moore	Co-CAT Team Coordinator	With King, Moore was the person in Gulfport claims office who oversaw the "water" portion of the claims adjustments relating to floods. He and King were involved in making the decision early on to get blanket engineering reports, and in later canceling that mandate. When it was necessary to "correct" these engineering reports, only he and King had access to the original engineering reports that were adverse to the final reports.
John Dagenhart	CAT Team Coordinator	In charge of the Biloxi (wind) office and also a CAT team coordinator. Engaged in the same conduct as Moore and King, although likely he engaged in less of this conduct since more of the claims in the Biloxi office dealt with wind rather than flood.
David Randel	Section Manager	As section manager for the CAT teams, Randall was the principal supervisor over Katrina claims. He was King, Moore and Dagenhart's boss and direct supervisor. He oversaw the adjusting of claims. He is one of only 12 – 15 section managers at State Farm.
David Haddock	Trainer	State Farm employee responsible for overseeing adjusters. His name appears on the fax letters sent to engineering firms recalling or canceling their engineering reports and directing them to

		"send their investigation materials" to State Farm.
Lisa Wachter	Trainer	State Farm employee responsible for overseeing adjusters. Similar knowledge to David Haddock.
Ryan Murphy	Claims Manager	Oversaw claims at Gulfport. Currently assigned to mediation teams.
Anna Eaton	Claims Adjuster	Finacee of Murphy. Murphy told her that the original engineering reports were scanned to the CSR program and then shredded.
Mark Drain	Team Manager	Assigned to the "high profile" claims where State Farm wanted to preserve relationships or prevent fallout.
Gary Clatterbuck	Team Manager (no longer in MS. Went back to TX after December)	Assigned to claims on Katrina, was outraged at how the process was handled, particularly at the claims and engineering report process. "Everything about this is just wrong!"
Mike Myers	State Farm Agent	Apparently had no flood insurance but backdated not only his own but also several other insurance applications to include flood coverage.
Felicia Palmer	State Farm Agent	Apparently knows about Myers' backdating.
Brenda Emmons	State Farm Adjuster	Brenda has widely been thought to be the "mole" inside State Farm because Katrina has affected her significantly. She has appeared to suffer depression as a result of her work on Katrina, and is believed to be very disturbed by what she was required to do.

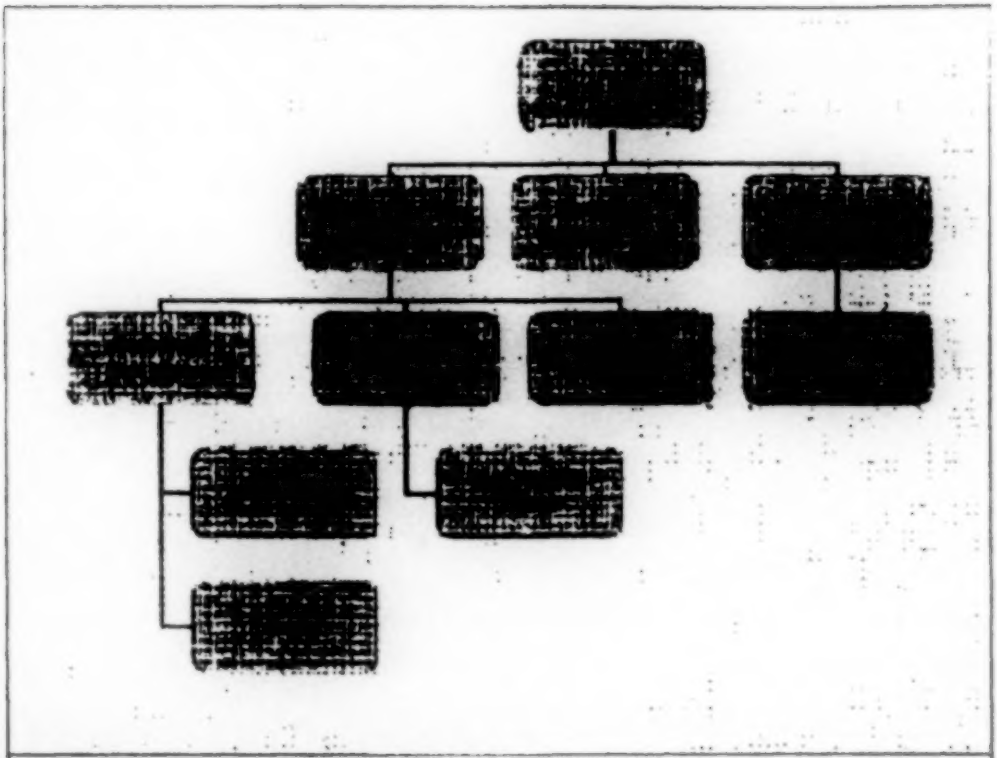

Figure One: State Farm Organizational Chart

How CAT Teams Worked In Prior Disasters

Catastrophe team adjusting is and always has been an "adjuster driven" process whereby adjusters are sent into the field and investigate and pay claims based on the damage they find. The only time additional assistance in the form of experts or engineers are engaged in most catastrophe claims is when there is extrinsic evidence of fraud.[7]

[7] For example, in one case adjusters thought that the "hail damage" they saw on a roof looked a lot more like marks made by a hammer and called in an engineer to investigate. Use of engineers prior to 2005 was rare.

Beginning with Hurricane Ivan in 2004 State Farm began to use engineers, but the use of engineers was random and State Farm always went by whatever the engineer said. If the report said damage was caused by wind, the policy was paid 100% based on the engineer's report. Even if State Farm disagreed with its expert's reports, it stood behind the expert and paid the claim based on what the expert said. As Cori Rigsby said, the purpose of the CAT team was to "rush in, pay a lot of claims, and leave." State Farm did not follow their prior policies or their past experiences in adjusting Katrina claims.

How CAT Teams Worked in Katrina

Initial bad decisions about how to handle claims might well be blamed on the scope of the disaster. The number of claims was enormous, and the response by State Farm required them to bring in adjusters and train new adjusters for the process of claims under State Farm's policies. At the outset, however, State Farm made a decision that would quickly become unmanageable for it. It made a decision to do a forensic engineering analysis of three kinds of claims.

"Slabs" are insurance slang for complete losses of structures and contents that involve nothing on the ground but a cleanly-stripped foundation. "Popsicle Sticks" is slang for structures where only the pilings or a few beams are left standing. "Cabanas" is the industry colloquialism for houses where the roof and perhaps some interior walls remain, but the structure itself is a total loss. Almost immediately after being notified and dispatched to the Katrina disaster on September 2, 2005, Kerri and Cori were told that they were to order an engineering report on every loss that was a "Slab," "Popsicle Stick" or "Cabana."

There was one exception to this requirement. If the policy-holder had flood insurance, and if the policy-holder was willing to accept this payment as the payment-in-full for their losses, State Farm would offer to pay that amount without a site inspection and without an engineering report.

The Flaw in the Program

The immediate flaw in the "blanket engineering report" program became apparent within hours of the blanket engineering requests in Katrina. There was no coordination of how engineers (or even which firms) were assigned to claims.

At the outset, State Farm got a report from Haag Engineering that concluded that the majority of the damage in Mississippi was due to flood, and not to wind or rain. This conclusion was contained in a report, a copy of which is attached as an exhibit to this disclosure. That document became State Farm's (and on information and belief, Nationwide, Allstate and USAA's) bible when denying coverage under hurricane insurance on the basis of damage caused by flooding. Even though information copies were provided to the other consulting engineers, those engineers did not always adhere to the party line.

While Jade Engineering might take one house on a block, Haag might take another. Dreux Seghers might get the last house on the street. And while each of the engineering firms was provided with an analysis done by Haag[1], individual engineers approached claims differently, relied on different information in reaching their results,

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[1] This "analysis" became State Farm's bible and basis for denying the majority of the hurricane claims because it found that the majority of the damage was from flood, not from wind. This in spite of the fact that hurricane force winds preceded storm surge by at least five hours.

and frequently (in the case of honest firms like Dreux Seghers) reached the conclusion that the majority of the damage was caused not by flood but by wind. See Figure 1, below.

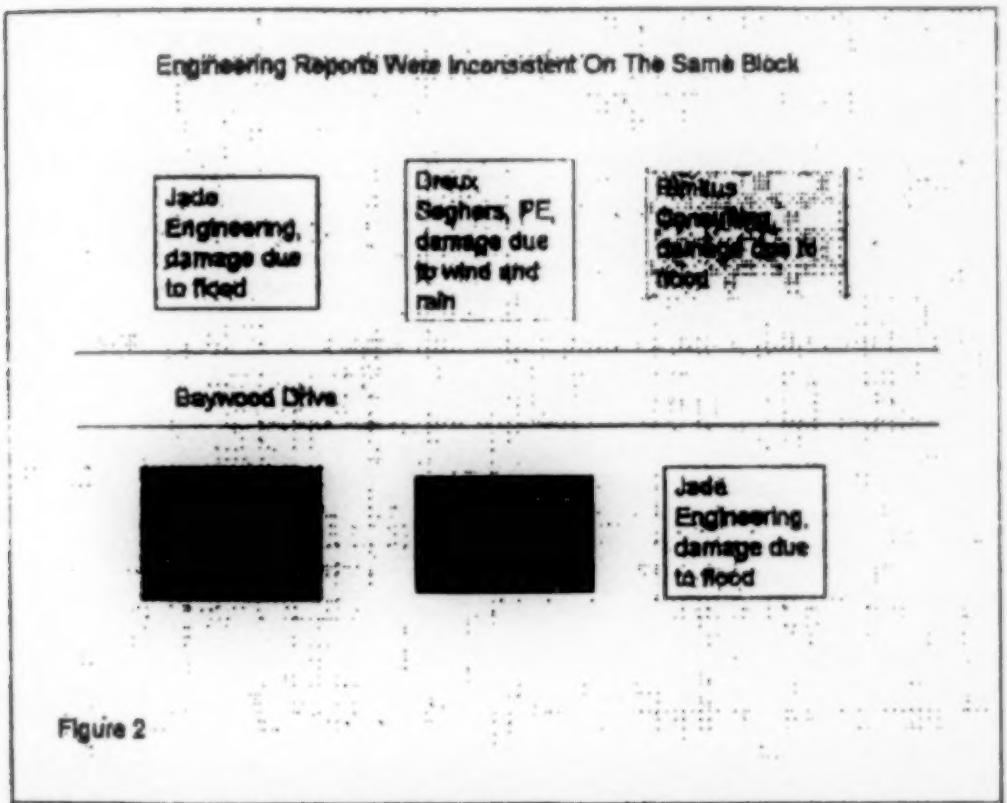

Figure Two showing how engineering reports gave different findings for cause on the same street. While some firms would change their reports when pressured, others, like Dreux Seghers, PE, refused, resulting in inconsistent determinations.

Alexis "Lecky" King from State Farm reached the conclusion that reports that differed substantially from those of Haag were to be considered suspect and were to be re-written or revised by the consulting engineer. She held bills and refused to pay them. While State Farm had routinely released engineering reports in the past to its policy

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holders, King now gave direction that the reports were not to be shared.[9] As noted earlier, scores of engineering reports were sent back to the engineers in order to get them re-written to coincide with State Farm's (and Lecky King's) view that these should all be flood damage claims.[10]

But the real flaw in the multiple engineer scenario manifested itself in case of Anna Vela. Vela is a Biloxi resident who lived on Baywood Drive and whose loss was first assigned to Dreux Seghers for analysis. The engineering analysis determined that the primary loss was due to wind damage. This was provided to Mark Drain at State Farm who passed it along to King for review. King told Drain that the engineer was "a moron" and directed him to "tell him to revise this." Shortly thereafter King left for a short time, and Drain had to make the determination, as a team manager, whether to pay the claim on the basis of the engineering report, or get a new report. He elected to pay the claim. State Farm paid out policy limits on the Vela claim.

Yet, other houses on the same street were determined by Haag, FAEC, and Exponent to be "flood" related, and those claims were paid only under a flood policy or denied.

In November the flaw was seen as what it was, a tool for inconsistent adjusting, and State Farm trainers David Haddock and Lisa Wachter directed adjusters not to get any further engineering reports on Slabs or Popsicle-Sticks. In addition, where

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[9] This was to prevent the situation where policy holders would get the initial report reflecting wind damage and rely on that before the "revised" report could be sent.

[10] Relators have memory of seeing a stack of engineering reports on Lecky King's desk that was more than one foot tall. These reports concluded that there was not flood damage, and they needed to be dealt with by King, who would instruct adjusters not to pay the claim until a new report would be issued by the engineer. That is why King placed the note in the McIntosh file to the effect that the prior engineering report would not be paid for, and would not be discussed.

engineering reports had been requested, they sent a fax to the engineers directing them to cancel the request, send along the investigation materials and not write a report. If a report had already been written, they were directed to send it, as well. A copy of this facsimile is found at Exhibit C.

The Engineering Reports

As painstakingly documented above, engineering reports were solicited by blanket authorization, even though these reports would generate invoices from the engineers to the tune of $1,500 to $3,000.[11] State Farm apparently looked at it from the standpoint of preferring to pay $1,500 to an engineer instead of paying $200,000 to an insured. Attached as Exhibit A is the engineering roster from State Farm Insurance that shows the name of the engineer, the date the claim was assigned, the claim number, the address, the inspection date, and the date a report was received by State Farm.[12] As can be seen by the report, certain engineers had a very high percentage of cancelled reports.[13] Seghers was hired on only 79 claims. 32 of those were cancelled or listed as never received or "peer reviewed." Seghers, who refused to play ball with State Farm, had 40% of its assignments cancelled. Similarly Engineering Design and Testing, a firm that refused to play ball with State Farm, received only 39 assignments and had 10 cancelled

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[11] This was a win-win situation for State Farm. The engineering reports, where they concluded that the damage was caused by flood, saved State Farm thousands. Where the policy holder was lucky (or unlucky) enough to have flood coverage, the costs of the engineering report became a part of the flood claim adjustment costs and were passed along to the FIA through the NFIP's mechanism for paying adjusters.

[12] In many cases the "date received" is inaccurate. Some of the reports were received, but not acknowledged. Others were cancelled.

[13] Relators have heard that Drexx Seghers, PE, who is not named as a defendant in this action, was approached by State Farm to change reports. Seghers stood by his reports early on where he concluded the source of damage was wind. Seghers did not receive an assignment from State Farm after November 2005. Those assignments that he did receive in October and November were cancelled at a significantly higher rate than other engineering firms.

(25%). Exponent Failure Analysis, a firm that did engage in re-writing of reports at State Farm, had 214 assignments and only 17% of those were cancelled by State Farm. Similarly low cancellation rates will be present for the other engineering defendants in this case. See Exhibit A.

Lecky King, Rick Moore, or their designees and employees directed the engineering firms to change any report where the cause of the damage was not flood. At one point relators were in a meeting with King who was reviewing engineering reports. She tossed one of the reports on to the center of the conference table and announced that the engineer must have known, or been related to, one of the persons on the street because the report did not conclude that the cause was flood. As such she said that this report would need to be re-written.

King would pull the reports that did not match her predetermined expectations of flood damage and would direct that they be revised. At one time the pile of reports that required revision was at least one foot tall. King and Moore sent an email (See Exhibit E.) that indicated to everyone that the original engineering reports were to be kept under lock and key, and that only she and Rick Moore had access to these reports.

Once the reports were re-written, the original reports were segregated and Relators believe that all original reports that were rewritten were or are in the process of being destroyed by State Farm at the direction of King and Moore.

State Farm, however, has an accounting system that tracks the reports and the dates assigned. The date an invoice was submitted is tracked along with the date paid. Since invoices were not paid until reports were re-written, a delay of more than 4 or five

days between the invoice and the payment would be indicative of a claim that was re-written to conform to the flood expectations.

Relators believe that Seghers, among others, would talk frankly with federal investigators about how he was essentially removed from assignments because he refused to re-write reports, as he has confessed this event to family members of the Relators.

The Adjustment Expenses

One of the many problems with the way the Flood Insurance Program is laid out is the requirement under the NFIP that "Write Your Own" ("WYO") insurance companies adjust the claims. Because the claims adjustment expenses ($1,500 to $3,000 for engineering reports and as much as $9,000 for individual independent adjusters) are passed along to FEMA and the Flood Insurance Administrator (FIA) under the regulations governing the NFIP, the WYO companies have a double incentive to misallocate a loss to flood insurance. First, the responsibility to pay the claim is borne by the federal government. This reduces the burden on the defendant by reducing the amount of reserves required to pay the claims. Secondly, the adjustment expenses are allocated to the flood claim. State Farm and the other defendants are not only allowed to push off the fixed costs of the claim, but also are able to push off the adjustment expenses.

Because the adjustment expenses are borne by FEMA under the program, State Farm gave direction initially to the adjusters that if they calculated a flood insurance claim and did not "hit the limits" that they were to recalculate the claim until such time as they did "hit the limits." This is not simply a desire to be generous with someone else's

money, nor is it a desire to "be fair" to the policy holder. Instead, it is a concerted effort to maximize profits by maximizing the amount of the flood insurance claim. If minimal losses are attributable to a flood insurance policy (for example, a $40,000 payment under flood insurance), the payment to State Farm for adjusting expenses is much smaller ($750). If coverage is maximized ($250,000 for structure and $100,000 for contents) then the adjusting costs charged by the independent adjusting firms ($7,000) are added to the costs of engineering reports ($1,500 to $3,000) and these costs, with some addition for overhead and other adjusting costs borne by State Farm, are all passed along to FEMA and the FIA. State Farm and other defendants make additional money by not only avoiding a charge against their reserves, but also by having all their claims adjustment expenses paid for by the federal government.

State Farm used a computer program called "XACT TOTAL" to calculate the flood claims and hit policy limits. The program permitted the agent to put in the square footage and amenities to "rebuild" the home. Adjusters were instructed to "hit the limits and if you haven't hit the limits on flood, go back and do it again until you do." The program was first developed for "slabs" but was later used for "cabanas" and other structures without total losses. One of the relators witnessed five houses where only four feet of mud was in the elevated house. There was no damage to roof, siding, and other structural elements. The house was submitted as a total flood loss (to hit the limits) using the XACT TOTAL software. State Farm continued this program until "Flood Calculator" was developed.

The Backdating of Policies

State Farm Agent Mike Myers was quoted by several individuals in the Biloxi area in the hours immediately after the storm as saying he did not have flood insurance. Within days this lack of insurance was transformed into a windfall by virtue of a backdated policy. Although relators do not have direct knowledge of how and when Myers was able to work the system to backdate flood coverage, it is known that Myers and several of his key clients and friends were able to get flood coverage in the days immediately after the storm.

Felicia Palmer is another Mississippi-based State Farm agent who did not have flood insurance and who suffered a complete loss on her business structures. She was not paid through State Farm for her loss. Myers, however, was able to get paid, even though he had told people he did not have flood insurance. Palmer is reported to be very angry. Relators believe that she will discuss the backdating allegations with investigators.

Relators also believe that the only way this could have been accomplished by Myers is if Myers has friends or associates in the Underwriting department of State Farm because the backdating of paperwork should ordinarily have raised red flags at State Farm and set off internal controls meant to catch exactly this type of situation.

Grant Money

As a response to the devastation of the Gulf Coast, Congress passed and the president signed in late 2005 a flood grant program. The program requires that a person have homeowners insurance, live in an area that is not a flood zone, and have structure losses due to a flood during Katrina.

The program will pay up to $150,000 (reduced by amounts already paid from other sources) for damages to structures during Katrina.

During the course of its post-Katrina adjusting, State Farm has encouraged homeowners to apply for these grants, and has facilitated such action! In a recent case the homeowner was entitled to payments under both contents and structure coverage. In mediation, State Farm transferred funds from its "A" (structure) coverage to its "C" (contents) coverage so that the homeowner would be entitled to a larger amount of grant money. The homeowner would not have been entitled to the contents value ordinarily. The homeowner was entitled to more money under the structural coverage. By transferring money from the structure to the contents, State Farm colluded with its insured to allow the insured to submit a larger amount for the grant.

WHAT EVIDENCE EXISTS OF THE FRAUDULENT CONDUCT

Relators' Declarations

Relators have examined the complaint and have attested to the fact that the information in the complaint is true and accurate to the best of their information and belief. The information in this disclosure and in the Complaint is what the Relators would testify to if placed under oath.

Relators have a great deal of information, and have kept a journal of questionable happenings at State Farm since the inception of the Katrina event. They have a wealth of knowledge about the persons involved, and would be a good source for investigators to speak with about the underlying fraud.

Documents

Many of the documents involved in this fraud (especially the original engineering reports) have either been shredded or are going to be shredded in days absent quick and dispositive action from the United States Attorney's office.

There are locked filing cabinets in the offices of King and Moore which contain information that establishes the fraud. Individual defendants and, where applicable, witnesses (Seghers, for example) will likely testify to the "rewrite your report to get paid" scam that State Farm enforced against the engineers.

Original invoices generated by the billing and accounting systems of the individual engineering defendants will also support the fact that multiple reports were written. There are likely computer records that show that two reports were written. Individual employees of these engineering firms are also likely to be willing to testify to the pressure brought to bear on them to change engineering reports.

Computer Evidence

State Farm maintains distributed servers in Jacksonville, Florida and Birmingham, Alabama. Disaster servers are, on information and belief, located in Bloomington, IN, for backup purposes.

Servers in Birmingham are dedicated to adjusting claims in the Mississippi and Alabama areas, while Louisiana and Texas claims are adjusted out of Austin, TX, where yet another server exists.

Documents, photographs, claims logs, adjuster logs, computations and other data associated with the claim are maintained in State Farm's *CSR Reflections* software. CSR is a DOS-based computer program that State Farm still uses to track claims. Information about multiple reports and claims are likely documented in the hundreds of adjuster logs maintained on *CSR Reflections*. Search warrants or subpoenas should be directed to both the CSR system as well as the Outlook email system maintained and used with State Farm.

Relators have produced some emails, including those that are relevant to the fraud issues here. Additional emails between King and her superiors, as well as other State Farm management personnel, are likely to be dispositive with respect to the knowledge of superiors at State Farm regarding the scope of the fraud.

FEMA Flood Map

One of the more dispositive pieces of information in this case is the flood map put out by FEMA, the agency responsible for managing the Flood Insurance Program. Copies of that map show very small areas that were actually flooded during Katrina. In spite of this determination by the parent agency of the Flood Insurance Administrator, Katrina victims were denied coverage and were paid on flood insurance claims over a much wider area than FEMA determined to be flooded.

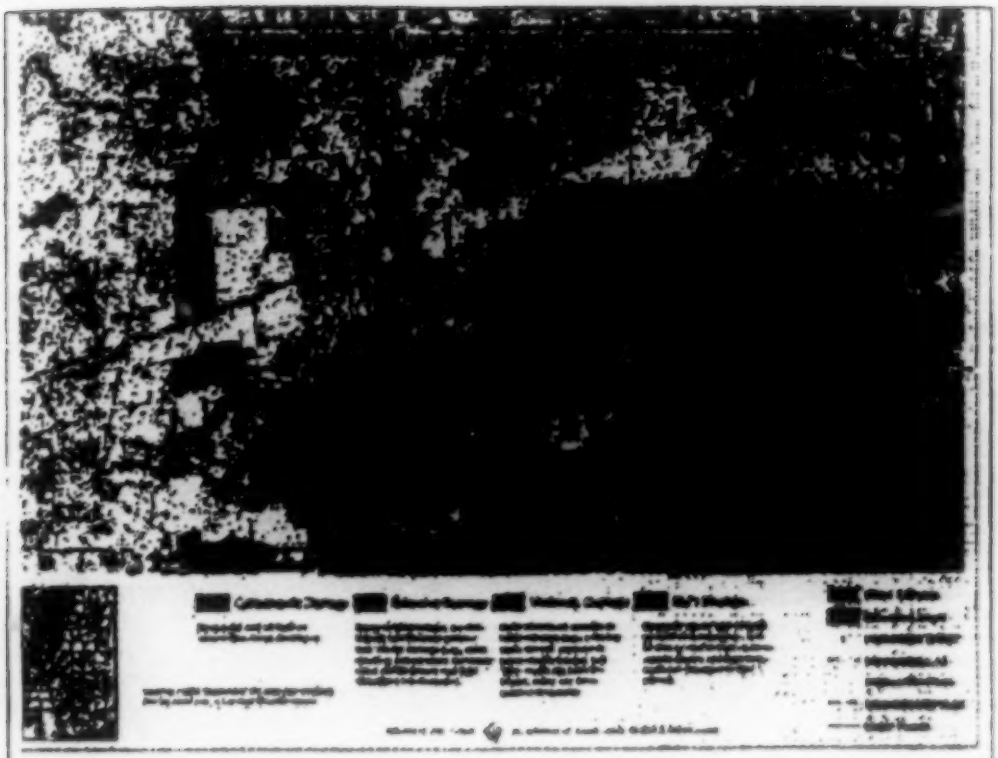

Figure Three: The FEMA flood map

DOCUMENTS AND EVIDENTIARY MATERIAL

The following documents and pieces of evidence are submitted with this disclosure.

Exhibit	Description
A	Engineers Roster – CAT P1
B	Haag Report
C	Craig Balius Claim Forms
D	Balius Flood Claim Worksheet
E	Emails from State Farm regarding Engineering Reports
F	Other Emails from State Farm
G	Relators Declarations

Respectfully submitted,

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SMPD1-00030

CERTIFICATE OF SERVICE

The undersigned certifies that on this 24th day of April, 2006, a copy of the foregoing Complaint and the required disclosure statement was served on the individuals below by first class mail, certified, return receipt requested to Dunn O. Lampton, US Attorney's Office, 188 E. Capitol St., Suite 500, Jackson, MS, 39201, and by placing the same in the United States Mail, first class postage affixed, certified, return receipt requested, and addressed to Alberto Gonzales, Esq., at the address below:

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_____
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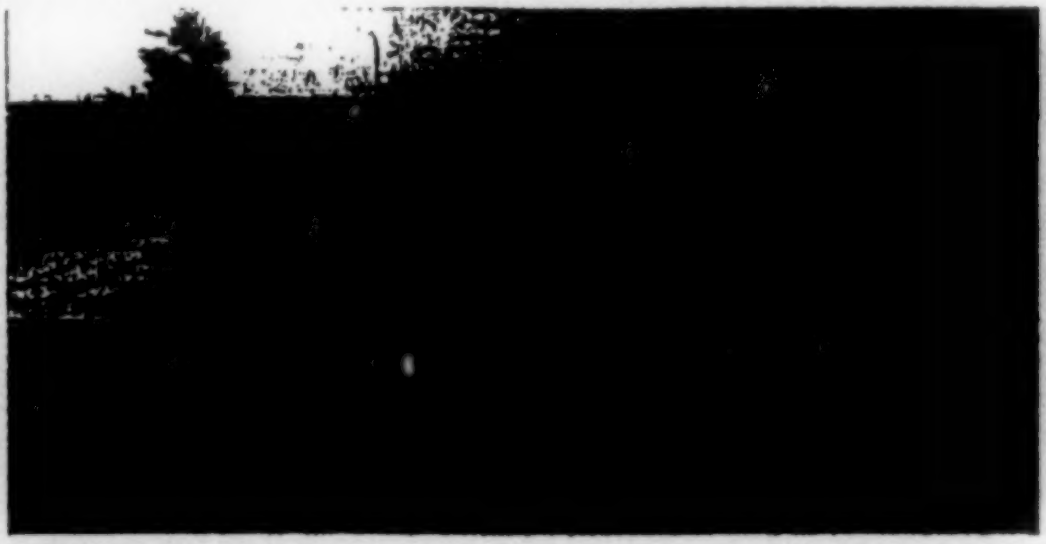

Richard F. Scruggs on the foundation of what had been his white-washed house in Pascagoula, 50 yards from the Gulf of Mexico.

By JOSEPH B. TREASTER
Published: March 18, 2007

PASCAGOULA, Miss. — Richard F. Scruggs, one of the country's most successful trial lawyers, made his first fortune in a case that hit close to home. He sued asbestos makers on behalf of workers at the shipyard in his hometown, Pascagoula, who had developed lung diseases. He made his second fortune with lawsuits against the tobacco industry, coming up with a winning legal strategy in Mississippi that he then applied nationwide.

But his latest legal battle — trying to force insurers to pay more for damage from Hurricane Katrina — literally hit home.

His white-washed house on Beach Boulevard, just 50 yards from the Gulf of Mexico, is gone. The house, with its columned entrance and sunny breakfast room, appeared in the

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Cheryl Gerber for The New York Times

Diane Scruggs, wife of Richard, with a table base retrieved at the site of her former home. The couple had flood insurance and they were paid the maximum $250,000 on the house plus $80,000 for furnishings.

movie "The Insider," about a whistle-blower who helped Mr. Scruggs win a $248 billion settlement in the tobacco case. It was so badly mangled that it had to be bulldozed to the foundation slab.

The loss made him a partner in grief with tens of thousands of residents along the coast of Mississippi. Many turned to him in their battle for insurance money in a fight that has become a financial and public relations nightmare for the insurance industry.

Mr. Scruggs, 60, slim, often folksy and smooth as molasses in court, is using techniques that he honed in his earlier legal fights. He is arguing now, as he did before to such good effect, that he is fighting for the little guy who cannot stand up alone to big anonymous companies.

"These are not just legal wars," Mr. Scruggs said in a recent interview. "They are public relations and political wars."

The insurance companies counter that Mr. Scruggs has portrayed them unfairly and misleadingly.

"Mr. Scruggs has taken a tiny portion of the claims associated with Katrina and tried to paint the entire insurance industry with a brush of malfeasance," said Robert P. Hartwig, president and chief economist of the Insurance Information Institute. "And that is an entirely incorrect characterization."

Joseph Annotti, a spokesman for the Property Casualty Insurers Association of America, whose members provide 40 percent of the home insurance in Mississippi and the rest of the country, calls Mr. Scruggs an opportunist. "People are looking for someone to blame and someone to pay," Mr. Annotti said. "He's playing on that anger and people's raw emotions. On our part, we underwrite policies that go through strict regulatory approval. Every word is approved by the state regulator."

The insurance dispute centers on two main kinds of damage in a hurricane: wind and flooding. People along the Mississippi coast say they thought their policies covered any type of hurricane damage. The insurers, with the backing of the courts, have insisted that flooding is not included.

But in some cases insurers have also refused to pay when a house was wrecked by both wind and flooding — and there, a federal judge has ruled, they were wrong. Flood insurance is sold by the federal government. But fewer than 20 percent of the coastal residents in Mississippi bought it.

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Insurers note that they have paid $41 billion for damage from Katrina, including $5.5 billion for homes in Mississippi. The insurers add that only 1 percent of their customers have taken them to court, but that amounts to more than 2,000 lawsuits in Mississippi and many more in New Orleans and elsewhere in Louisiana that are being dealt with separately.

For months after the hurricane hit on Aug. 29, 2005, the insurance dispute in Mississippi was stalled. But in mid-January a Biloxi couple won a $1 million verdict against State Farm, the largest home insurer in the nation and in Mississippi.

Less than two weeks later, Mr. Scruggs completed negotiations on settlements with State Farm worth at least $130 million, setting the pattern, many insurance experts said, for resolving hundreds of other cases and potentially providing hundreds of millions of dollars for rebuilding along the coast.

Mr. Scruggs conceded he has used "every trick in the book" to gain advantage over the insurers.

"This is very personal," he said. "This is about my family, my friends, the people I grew up with. I wake up at 3:30 every morning thinking of ways to get at this thing."

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Past Coverage
TALKING BUSINESS; A Contract Is a Contract, Right? (February 24, 2007)
Insurer Is Said to Be Nearing Settlement of Hurricane Claims (February 20, 2007)
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From: Joseph Treaster <treaster@nytimes.com>
Sent: Monday, January 22, 2007 1:40 PM
To: Beth Jones <bethjones@scruggsfirm.com>
Subject: Re: back

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thank you very much. joe treaster

04:24 PM 1/22/2007, you wrote:

> Dick asked that I send this to you in confidence.
>
> Beth
>
> **Beth Jones**
> Executive Assistant to Richard F. Scruggs
> Scruggs Law Firm
> 120 A Courthouse Square
> P.O. Box 1136
> Oxford, Mississippi 38655
> Office: 662-281-1212
> Fax: 662-281-1312
> E-mail: bethjones@scruggsfirm.com

Beth Jones

From: Beth Jones
Sent: Wednesday, June 06, 2007 3:48 PM
To: roy@cbsnews.com
Subject: FW:
Attachments: False Claim Act First Amended Complaint.doc; Renfroe Code of Conduct.pdf

THIS IS OFF THE RECORD

I WILL SEND THE BIG COMPLAINT WE ARE WORKING ON IN A SERAEATE EMAIL.

IN THE UNITED STATES DISTRICT COURT OF MISSISSIPPI
SOUTHERN DISTRICT

UNITED STATES OF AMERICA EX REL. CORI RIGSBY, AND KERRI RIGSBY, Relators, vs STATE FARM MUTUAL INSURANCE COMPANY NATIONWIDE INSURANCE COMPANY ALLSTATE INSURANCE COMPANY USAA INSURANCE COMPANY FORENSIC ANALYSIS ENGINEERING CORPORATION EXPONENT FAILURE ANALYSIS HAAG ENGINEERING CO. JADE ENGINEERING RIMKUS CONSULTING GROUP INC. STRUCTURES GROUP. E. A. RENFROE, INC JANA RENFROE GENE RENFROE ALEXIS KING	CASE NO. 1:06cv431 Sealed **TO BE FILED IN CAMERA AND UNDER SEAL** Pursuant To 31 Usc § 3731

RELATOR'S FIRST AMENDED COMPLAINT FOR DAMAGES UNDER THE FALSE CLAIMS ACT, 31 USC § 3729 ET SEQ.

COMES NOW Relators in the above-entitled action, and for their cause of action state and aver as follows:

CAUSE OF ACTION

1. This is an action to recover damages and civil penalties on behalf of the United States of America arising out of the false claims presented for payment by the defendants under the National Flood Insurance Program, 42 USC § 4001, et seq. This is a cause of action brought by a relator pursuant to 31 USC § 3729 and the qui tam provisions of that statute found at 31 USC §§ 3730 and 3731.

2. 31 USC § 3730(b)(2) provides that "The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information." Plaintiff is filing this matter under seal.

3. A copy of the evidentiary disclosure required by the False Claims Act has already been served on the United States. A second, supplemental disclosure was made on December 8, 2006.

JURISDICTION AND VENUE

4. 31 USC § 3732 provides that: "Any action under section 3730 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in

which any act proscribed by section 3729 occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States."

5. As established by the pleadings, *infra*, defendant State Farm Mutual Insurance Company transacts business in this judicial district and this action may properly be brought against it in this district.

6. As established by the pleadings, *infra*, defendant Nationwide Insurance Company transacts business in this judicial district and this action may properly be brought against it in this district.

7. As established by the pleadings, *infra*, defendant Forensic Analysis Engineering Corporation transacts business in this judicial district and this action may properly be brought against it in this district.

8. As established by the pleadings, *infra*, defendant E. A. Renfroe, Inc., transacts business in this judicial district and this action may properly be brought against it in this district.

9. As established by the pleadings, *infra*, defendants Jane and Gene Renfroe, as the principals of E. A. Renfroe, Inc., have transacted business in this judicial district and this action may properly be brought against it in this district.

10. As further established by the pleadings, the acts proscribed by § 3729 occurred in this judicial district.

PARTIES

11. Relator, Cori Rigsby is a citizen and resident of the State of Mississippi and is employed by E. A. RENFROE, INC., a company that is an independent contractor for State Farm Mutual Insurance Company, USAA and Nationwide Insurance Company. She is a claims manager and from time to time has witnessed the events set forth herein.

12. Relator Kerri Rigsby is a citizen and resident of the State of Mississippi and is employed by E. A. RENFROE, INC., a company that is an independent contractor for State Farm Mutual Insurance Company, USAA and Nationwide Insurance Company. She is a claims manager and from time to time has witnessed the events set forth herein.

13. Defendant State Farm Mutual Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company. At all times relevant herein it has done business in this judicial district and the acts complained of occurred here.

14. Defendant Nationwide Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company. At all

times relevant herein it has done business in this judicial district and the acts complained of occurred here.

15. Defendant USAA Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company. At all times relevant herein it has done business in this judicial district and the acts complained of occurred here.

16. Defendant Allstate Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company. At all times relevant herein it has done business in this judicial district and the acts complained of occurred here.

17. Defendant Forensic Analysis Engineering Corporation is a Mississippi engineering firm providing forensic analysis for insurance agencies for the purpose of categorizing damage as being of one type (wind) or another (water). In this case FAEC provided materially false engineering reports at the request of State Farm Mutual Insurance for the sole purpose of convincing FEMA to pay property damage claims out of flood insurance rather than hurricane or homeowner's insurance, as is more fully set forth herein.

18. Defendant Exponent Failure Analysis is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

19. Defendant Haag Engineering Company is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

20. Defendant Jade Engineering is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

21. Defendant Rimkus Consulting Group, Inc., is an engineering firm providing consulting services to defendants State Farm and on information and belief,

Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

22. Defendant Structures Group is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

23. Defendant Structures Group, Rimkus Consulting Group, Inc, Haag Engineering Company, Jade Engineering, Exponent Failure Analysis, Forensic Analysis Engineering Corporation are all collectively referred to herein as "Engineering Defendants."

24. Defendant E. A. Renfroe, Inc., operated as a closely-held corporation by Gene and Jane Renfroe, defendants herein, is a business that provides adjusters to insurance companies during periods of natural disaster, and in the case of Hurricane Katrina, provided Kerri Rigsby and Cori Rigsby to State Farm Mutual Insurance Company as leased employees for the purpose of cloaking them with authority to adjust claims on behalf of State Farm Mutual Insurance. As more fully set forth infra, Defendant actively conspired with

State Farm Mutual Insurance Company to defraud the federal government on Flood Insurance Claims.

25. Defendants Jana and Gene Renfroe, who are officers or directors of E.A. Renfroe, Inc., conspired with State Farm Mutual Insurance Company and with others to retaliate against Cori and Korri Rigsby as a result of their gathering information to support a claim under 31 USC § 3729 et seq.

26. Defendant Alexis "Locky" King is a supervisory adjuster with State Farm and at all times directed the fraudulent acts perpetrated by State Farm and Renfroe adjusters.

BACKGROUND FACTS

RELATORS

27. Relators worked for E. A. Renfroe, a company that provides disaster claims management services (and claims representatives) for defendants State Farm Mutual Insurance Company, USAA and Nationwide Insurance Company. In the course of their duties as employees of the EA Renfroe firm, they have been personally pressured by defendant State Farm's and E.A. Renfroe's supervising claims personnel to change claims payments. They have full and independent knowledge of the facts and circumstances surrounding the allegations made in this complaint, and learned this information in their capacity as employees, and through no other source. They made a report to federal and state law enforcement officials prior to filing this action.

28. Relators began their efforts as independent adjusters and team managers for the State Farm Mutual Insurance Company Catastrophe Team (aka "CAT" team), on September 2, 2005, when State Farm brought them, as leased employees, to Gulfport MS for the purposes of adjusting claims for victims of Hurricane Katrina.

29. On or about April 19, 2006, Relators presented a full evidentiary disclosure to the United States Attorney for the State of Mississippi, turning over substantially all material evidence in their possession, as well as providing a detailed personal account of the wrongdoing and fraudulent conduct engaged in by the Defendants. Relators did not file this action until full disclosure had been made to the United States Attorney.

30. Following the submission of the evidentiary disclosure, but before meeting with the United States Attorney, relators set about to gather additional evidence of fraud on the federal government.

31. On or about June 3rd, 2006, Relators accessed the files of State Farm Mutual Insurance Company and copied selective information from the computer files of the insurer that showed, in their view, that State Farm had engaged in wire fraud, mail fraud, fraud in violation of 31 USC § 3729, had submitted false claims, and had destroyed evidence of multiple engineer reports.

32. On or about June 5, 2006, Relators informed State Farm that they had taken the documents and given them to federal prosecutors on the advice of their attorneys. On or about June 5th, prior to notifying State Farm, Cori Rigsby

provided copies of the documents to state and federal law enforcement officials.

33. Immediately on learning that the Rigsbys had gathered the evidence against their criminal and fraudulent conduct, on June 6, 2006, State Farm asked the Rigsbys to discuss matters with State Farm lawyers. The Rigsbys refused. They went on vacation and returned on or about June 20, 2006. At that time State Farm locked them out of their facility, escorted them out under a security escort, and told them they would not be allowed back into the building.

34. Thereafter Defendant State Farm conspired with Defendant E.A. Renfroe, and with Jana Renfroe and Gene Renfroe, to impose retaliatory actions on Cori and Kerri Rigsby. They were later discharged from employment by E. A. Renfroe.

35. Thereafter, in September 2006, E. A. Renfroe initiated a strategic lawsuit against public participation against the Rigsby sisters asking the federal court in Birmingham to enjoin their use of the documents and to return State Farm's documents to E. A. Renfroe. This was done so as to avoid the criminal investigation of the state of Mississippi and the federal government.

36. The Rigsby sisters refused to return the documents and sought to defend the action against them. Thereafter the federal court imposed an injunction on the relators and required them to return the documents in their possession. As no documents were in their possession, the sisters could not return any.

37. The defendants indicated in court filings that they knew of the existence of this case, and that their damages in that case were linked to the recovery made by the Rigsbys here in this case.

38. Renfroe, knowing well that the relators had no documents, still attempted to cite them for civil and criminal contempt even though they admitted, at a hearing on March 19, 2007, that they could not prove how many documents were taken, and if the Rigsbys even had documents.

39. The Renfroe lawsuit has caused the Rigsbys to engage legal representation and to incur thousands of dollars in attorneys' fees.

STORM SURGE

40. Storm Surge is simply water that is pushed toward the shore by the force of the winds swirling around the storm. This advancing surge combines with the normal tides to create the hurricane storm tide, which can increase the mean water level 15 feet or more. In addition, wind driven waves are superimposed on the storm tide. This rise in water level can cause severe flooding in coastal areas, particularly when the storm tide coincides with the normal high tides. Because much of the United States' densely populated Atlantic and Gulf Coast coastlines lie less than 10 feet above mean sea level, the danger from storm tides is tremendous.

41. Storm surge is most intense in the right-front quadrant of a hurricane. See http://www.nhc.noaa.gov/HAW2/english/storm_surge.shtml

42. While storm surge comes about as the eye makes landfall, Hurricane force winds precede the storm surge by six to seven hours. Hurricane force winds can remain destructive in excess of 100 miles per hour even as far as 175 miles inland.

43. At the very beginning of the claims adjustment period, State Farm commissioned a report from Haag Engineering which concluded that storm surge preceded the hurricane force winds in the storm, and thereby caused the majority of the damage in the hurricane.

44. This conclusion was contrary to science and all normative models of hurricanes in the past 100 years. In spite of this, State Farm made the Haag Report their "bible" in evaluating wind vs. water causation.

45. Essentially the Haag Report lent enough credibility to the adjusters to assign wind claims to water damage.

HOW FLOOD INSURANCE WORKS

46. The United States Government, acting through the Federal Emergency Management Agency, (FEMA) is the only entity in the United States that underwrites flood insurance.

47. In most cases, as here, the government only acts as the funding source, and the coverage is sold through private insurance companies called "WYO" or Write Your Own companies.

48. When there is a claim under a Standard Flood Insurance Policy ("SFIP"), the private WYO insurance company is required to adjust the claim in accordance with the federal regulations. The applicable regulation, 44 CFR § 62.23(d) provides: "A WYO Company issuing flood insurance coverage shall arrange for the adjustment, settlement, payment and defense of all claims arising from polices of flood insurance it issues under the [National Flood Insurance Program], based on the terms and conditions of the Standard Flood Insurance Policy."

49. In acting as the claims adjuster for the government, the WYO companies are fiscal agents of the government and payments on SFIP claims are a direct charge on the United States Treasury. See *Wright v. Allstate Ins. Co.*, 415 F.3d 384, 386-87 (5th Cir. 2005). To the extent that an insurer presents a claim for reimbursement under the SFIP to the federal government, that claim is presented to an officer or agent of the United States Government, specifically, to the Director of the Federal Emergency Management Agency.

50. Whenever an insurer has sold a homeowner's policy (or hurricane policy) that it underwrites, and also issues a flood insurance policy under the National Flood Insurance Program ("NFIP"), the flood insurance policy is never more than the homeowner's insurance policy or the accompanying hurricane insurance policy.

51. In acting as the government's agent in adjusting the claim, the company has an incentive to charge off all damage to the government as flood damage because when they do so, the government, acting through FEMA, pays the

entire claim, thereby relieving the company of its obligation under its own policy of insurance.

52. The term "flood" is narrowly defined by statute and rule:

a. 42 USC § 4121(1) states "the term 'flood' shall have such meaning as may be prescribed in regulations of the Director, and may include inundation from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge;"

b. The director has provided the following definition of flood:

Flood, as used in this flood insurance policy, means:

1. A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (one of which is your property) from:

a. Overflow of inland or tidal waters,

b. Unusual and rapid accumulation or runoff of surface waters from any source,

c. Mudflow.

2. Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined in A.1.a. above.

44 CFR Pt. 61, App. A(1)

53. During Hurricane Katrina, FEMA identified only small parts of the Mississippi coast as flood damaged, generally around Bay St. Louis. The remainder was identified as hurricane damage.

54. In most locations where a defendant insurance company has written flood insurance policies and collected premiums under the NFIP, the company has also written homeowners and hurricane insurance.

55. Under the arrangement between the company and FEMA, (44 CFR Pt. 62, App. A), the government requires when the company writes coverage for other perils and flood insurance, that one adjuster be used.

REALLOCATION OF WIND CLAIMS TO FLOOD CLAIMS

56. On information and belief, beginning at about the time the first claims began to come through adjusters for Hurricane Katrina, defendant insurance companies made a corporate decision to misdirect and misallocate claims from those of hurricane coverage (which a company would be required to pay from its reserves or reinsurance) to flood claims that could be submitted and paid directly from the United States Treasury. They communicated this decision directly or indirectly to the E.A. Renfroe company when they sought compliant and poorly-trained adjusters to assist in the handling of flood-related losses.

57. In order to facilitate the misallocation, State Farm ordered an engineering survey on every claim that involved a "slab" (a loss where there was nothing left but foundation), a "popsicle stick" (a loss where there were only beams or

pilings remained standing), or a "cabana" (a loss where a roof remained but the main interior of the building had been damaged due to wind, flood, or otherwise).

58. State Farm's view was that it was better to pay $1,500 for an engineering report if it would save them up to $350,000 on a homeowner's claim.

59. On information and belief, defendant State Farm directed its employee adjusters and independent contractor adjusters (supplied by defendant E.A. Renfroe, Inc., and supervised by Renfroe employees including Jana and Gena Renfroe) to show flood damage whenever and wherever there was any amount of water damage, and to adjust the claim as flood insurance rather than hurricane insurance even though the primary mechanism for damage was wind, not flood waters.

60. In addition, when directing adjusters to categorize claims as flood damage and shift responsibility to the government for payment of the claim under flood insurance, State Farm insisted that adjusters "hit limits" when adjusting flood claims.

61. This "hit the limits" instruction was a *quid pro quo* to E. A. Renfroe for its compliance with the flood-fraud scheme in that adjusting costs paid to State Farm under the Flood Insurance Program are linked directly to the amount of damage paid to the insurer.

62. Specifically, adjusters were told that if they initially analyzed a claim and found that the insured had less damage under flood coverage than policy

limits allowed, the adjuster was told to go back through the claim a second time to ensure that the flood claim "hit limits." Adjusters used a computer program designed by State Farm known as "XACT Total" as a shortcut to determine the amount of damage for a claim. XACT Total was used to make determinations of total flood loss even in homes that sustained moderate flood damage.

63. On information and belief, particularly where the wind (and not the water) made a structure unsalvageable, the claims were misallocated into flood insurance claims because flood insurance claims were paid by the US Treasury and did not come out of the company's reserves.

64. This misallocation of claims has resulted in significant damage to the federal treasury.

SPECIFIC INSTANCES OF REALLOCATION OF WIND CLAIMS TO FLOOD CLAIMS

65. Relators are aware of two specific instances where Defendant State Farm has engaged in reallocation of claims from wind damage to flood damage.

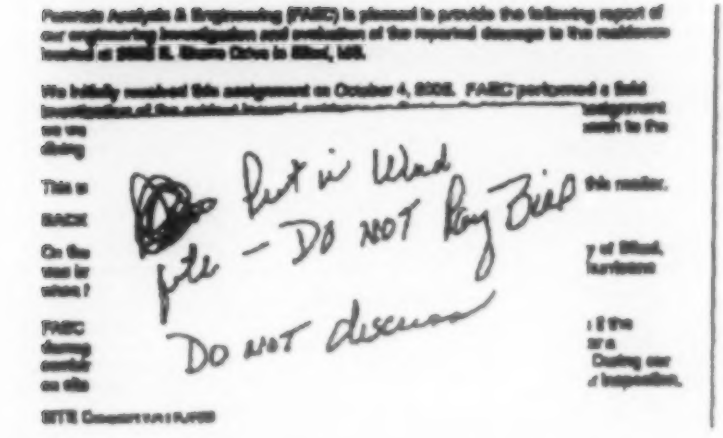
66. On October 4, 2005, State Farm Mutual Insurance Adjuster Cody Perry issued an assignment to defendant Forensic Analysis Engineering Corporation (FAEC) for the purpose of having FAEC determine the nature of the destruction of the property located at 2558 S. Shore Dr., Biloxi, MS. FAEC carried out the assignment on October 7, 2005. The firm did a site inspection and reached conclusions based on the inspection.

67. The engineering firm concluded that the damage that occurred to the insured's home at the time of the hurricane was due principally to wind, and not to water.

68. That report was dated October 12, 2005. The report said:

> CONCLUSIONS
>
> Based upon the information that has been presented to FAEC and evidence observed during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusion concerning the damage to the structure.
>
> - The tree failures in the northwesterly direction are the result of the winds east of the southwest from the approaching hurricane.
> - The roof, door, carport, and window damage was caused by wind and wind driven debris.
> - It is FAEC's opinion that the interior damage of the structure is primarily the result of the failure of the windows, walls, and doors due to wind.
>
> The conclusions and opinions presented in this report are based on the results of FAEC's field investigation of the subject residence, as well as our analysis of the available wind and localized water level data and upon all of the other associated information that we have gathered during the course of our investigation efforts to date. If additional information or facts become available which materially affect these stated conclusions and opinions, then, FAEC reserves the right to amend or change its opinions and conclusions as needed.

69. This report never became part of the permanent record of the McIntosh claim because it was recognized as contrary to the direction given to State Farm adjusters. On information and belief, State Farm CAT Coordinator Alexis "Lecky" King wrote the following note on the report: "Put in Wind file – DO NOT pay bill. Do Not Discuss". A copy of that note is shown below:



Forensic Analysis & Engineering (FAEC) is pleased to provide the following report of our engineering investigation and evaluation of the reported damage to the residence located at [redacted] in Elliot, MS.

We initially received this assignment on October 4, 2005. FAEC performed a field investigation of the subject property, and [illegible] assignment with to the [illegible] during [illegible] This is [illegible] 9th review. BACK On the [illegible] was for [illegible] ? of Elliot, hurricane FAEC during [illegible] on site ; if the [illegible] Outing our / inspection.

Put in Wad file - DO NOT Pay Bill

DO NOT discuss

SITE CHARACTERISTICS

70. Thereafter, on October 20, FAEC was commissioned to write a completely different report. The second report was based on a site visit of October 18, 2005, and never disclosed the prior site visit. The observations in this second report did not contain any observations from the previous report, and contained numerous observations that were completely contrary to the findings in the first report. Thereafter, the report found:

CONCLUSIONS

Based on the information that has been presented to FAEC and evidence gleaned during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusions concerning the damage to the structure:

- The tree failures in the northwesterly direction are the result of the winds out of the southeast from the approaching hurricane.
- There appears to have been damage to the structure by wind as evidenced by missing shingles on parts of the roof structure. Damage to the second story floor and first floor ceilings was predominately caused by wind and intruding rainwater.
- The damage to the first floor walls and floors appears to be predominately caused by rising water from the storm surge and waves.

71. On or about September 26, 2006, State Farm representative Christy Sims commissioned a study by FAEC on the Mullins home at 6057 Pine Tree Drive, Kiln, MS.

72. Among the observations made by the engineers were that the structure had already been removed from the site, as required by FEMA, and that much of their analysis was based on photographs provided to the engineers by the homeowners.:

SITE OBSERVATIONS

The following are the observations made during FAEC's inspection of the structure:

- Upon approaching the property the house had been already removed from the site as required by FEMA.

- From attached photographs provided by the insured, the entire house had been taken off from its support piers and came to a rest against the house across the street. The house had rotated about 180 degrees and its front was facing south. The porch area was about in line with the center of the street.
- No significant damage to the house was observable in the insured's photos, except for the contact point with the neighboring house across the street.
- According to the insured, the water had rose to 10 inches above the floor level at a neighboring residence close by. No water damage to the house could be appreciated from the photographs nor observed from the surroundings.
- The 24 inches high concrete block piers were in complete disarray. The blocks were not joined to each other nor anchored to the ground.
- With very few exceptions, all the trees around the observable area were standing straight and with all their foliage remaining.

73. The report concluded that the damage was due primarily to wind, and not to flooding.

74. The report's conclusion section stated:

CONCLUSIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how those conditions affected the neighborhood area of the insured residence conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated:

- **FAEC has concluded that the primary and predominant cause of damage to the subject property was due to hurricane force winds. This is based on the displacement of the house and the absence of water damage to the same. However, this displacement was facilitated by the poor anchoring and supporting observed.**

75. Thereafter, or on about January 3, 2006, FAEC submitted a different report predicated on the same site visit of October 11, 2005, but not mentioning the prior report. Observations from the second report included:

- **There was tree damage in the neighborhood with trees falling to the west northwest.**
- **There was shingle damage to houses nearby.**
- **The owner of the trailer across the street, whose home was impacted by the insured's, indicated that the water had come up to the bottom of her trailer. This was estimated to be between 2 and 3 feet above grade.**
- **The foundation for the insured's home consisted of concrete block piers about 2 feet above grade. No tie downs were observed, however one photograph furnished by the insured pictured, what appeared to be, a minimally effective tie down.**

76. In addition, the conclusion of the second report stated a completely different finding than the original report of October 11, 2005.

77. The second report concluded that the damage was due to flood waters, saying:

CONCLUSIONS & OPINIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how these conditions affected the neighborhood area of the insured residence conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated:

- The tree failures in the northwesterly direction were the result of winds out of the southeast from the approaching hurricane.
- The damage to the interior of the house could not be determined as no evidence was available.
- The movement of the house across the street with minimal obvious wind damage is consistent with a buoyant force applied to the building by rising water allowing the wind to blow the house northwards until it reached an obstruction.

SPOLIATION OF EVIDENCE

78. On our about April 12, 2006, relators learned that defendant State Farm Mutual Insurance Company had in fact engaged the services of a commercial document shredding company, "Shred It." Relators were told by at least one State Farm employee that some claims data and/or engineering reports associated with the fraudulent conduct in this case were being shredded. Whether or not Shred-It was employed to shred particular documents is unknown to the relators, but relators' strong suspicion is that data necessary to prove fraud were and are being shredded.

79. At some point prior to being subpoenaed by the Attorney General of Mississippi and private civil lawyers, Alexis King and Richard Moore sent out a memorandum to all staff adjusters at State Farm that indicated that the original engineering reports on all claims files were held under lock and key, and only those two people could release them.

80. Sometime later, with respect to these original engineering reports that had been stacked on Ms. King's desk at a height of more than one foot tall, State Farm went to a "paper lite" system that caused them to "scan" into the computer one engineering report and discard, scan, shred, spoliate or destroy any other engineering reports generated by the purported independent engineering firms.

81. On or around November 11, 2005, State Farm sent facsimile transmissions to many of the Engineering firms. That fax stated, for example, "Structure Group. Please cancel this assignment. Claim Number 24-Z455-169. Insured: Ballus. Thanks. Catastrophe Team Manager David Haddock, 11-11-05. If you have already inspected this loss, do not write the report. Send your investigation material with your bill. Send the report if completed."

82. The purpose of these cancellations and facsimile transmissions was to recall the directive requiring engineering reports to be submitted with all claims and to prevent further engineering reports from being submitted containing determinations that damages were the result of causes other than water.

83. State Farm, while ordering these engineering reports, did not allocate blocks of claims in particular regions to specific engineering companies, and in fact, assigned some claims early on to engineering companies like Dreux Seghers who reported the cause of the damage as wind, and who, when contacted by the Defendants, refused to change their report to reflect that the damage was caused by water.

84. A compilation of all claims assigned to some of the engineering firms shows the Defendants caused an exceptionally high rate of cancellation of engineering reports from those firms, like Dreux Seghers, that routinely concluded that wind, and not water, was the causative agent of the damage. The compilation of claims shows that engineering reports were requested from Dreux Seghers' firm only 79 times and that 32 of those reports were subsequently cancelled (41% cancellation rate). By contrast, Defendants requested 214 engineering reports from Exponent Failure Analysis and that only 36 of those reports were subsequently cancelled (17% cancellation rate).

85. The actions of the defendants in spoliating evidence of their fraud on the federal government led the relators to obtain documents on June 3, 2006, in order to substantiate the fraud being committed on the US Government.

INCONSISTENT ENGINEERING ASSESSMENTS

86. Because there was not an area-by-area assignment of engineering firms, great disproportionality resulted in the reports received. One example can be found in the claim of Anna Vela of Biloxi.

87. Vela's claim was evaluated by Dreux Seghers who concluded that the cause of the damage was wind.

88. The team manager, Mark Drain, concluded that the engineering report required him to pay the full policy limits under the wind coverage.

89. The supervisor, Alexis "Lecky" King told Drain that the engineer was a "moron" and that the report should be sent back to the engineer to get him to correct his report to show flood damage.

90. King then left the office for a few days and Drain, seeing an issue with an engineering report he commissioned being used as the basis to deny rather than pay the claim, paid the full policy limits under the wind coverage.

91. There were numerous other claims for wind and water damage on the same street (Baywood Drive). All of those claims by State Farm (and other insurers) were denied for wind damage, resulting in inconsistent determinations.

GRANT FRAUD

92. In October, Congress passed a grant program for gulf coast Katrina victims.

93. The flood grant program was designed to provide a source of rebuilding funds for persons who suffered casualty losses due to flood but who did not live in a flood plain and did not have flood insurance, and their homeowner's claims were denied for that reason.

94. On or about April 18, 2006, Ryan Murphy, a State Farms Claims Team Manager ordered after a mediation that payments originally destined to compensate under Coverage A (Homeowners) be reallocated to Coverage C (contents) so as to permit the policy-holders to apply for the grant program.

95. By employing engineering reports that reallocated losses to "flood" instead of homeowners, State Farm, Nationwide, and other insurers essentially pushed off their responsibility to pay claims onto the federal government.

96. By refusing to pay based on false engineering reports, the defendants caused Katrina Victims to submit false claims to the federal government's flood grant program.

BACKDATING OF CLAIMS

97. On information and belief State Farm Agent Mike Myers did not have Flood Insurance through the NFIP before Katrina hit the Biloxi area.

98. In addition to Myer's own failure to have insurance, several of his friends and associates did not have flood insurance.

99. In spite of the failure to have flood insurance in place before the storm hit, Myers, working with someone in underwriting at State Farm, backdated a policy for himself and for several others who did not have flood coverage.

100. This permitted Myers, among others, to submit claims for flood insurance even though the victims did not have flood insurance before the storm hit.

ADJUSTING EXPENSES

101. Under the rules of the NFIP and pertaining to adjustment of claims, the insurance company must use the same adjuster to adjust the claim for homeowners and flood insurance.

102. During Katrina, independent adjusters were employed to adjust claims.

103. As noted earlier, adjusters were told, when adjusting claims involving flood insurance, to "hit the limits" regarding the flood coverage.

104. When an independent adjuster handles a claim for the flood program and the policy holder has the maximum policy limits ($250,000 structure, $100,000 contents), the adjuster is paid by the federal government a fee of approximately $7,000.

105. This $7,000 amount is passed along to the Flood Insurance Administrator as an adjusting cost with a markup by State Farm.

106. By passing a loss over to the FIA and the NFIP, State Farm not only benefited by not having to pay the claim, but was able to transfer their adjusting costs to the FIA through the NFIP. This was a *quid pro quo* to E.A. Renfroe who directly benefited from the acts of State Farm.

107. The amount of administrative fees that State Farm receives from the FIA and the NFIP is a sliding scale based on the amount of the claim being paid. The amount of the administrative fee goes up in accordance with the amount of the flood loss claim.

COUNT I
VIOLATION OF 31 USC § 3729(a)(1)

108. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 107 as if fully set forth herein.

109. Defendants State Farm Mutual Insurance Company, E. A. Renfroe, Inc., Alexis King, Jana Renfroe, Gene Renfroe, and the various engineering defendants, acting through their employees, officers, agents and independent contractors knowingly presented or caused to be presented claims for payment of flood damage.

110. On information and belief, Defendants Allstate, USAA Insurance Company, and Nationwide Insurance Company acting through their employees, officers, agents and independent contractors knowingly presented or caused to be presented claims for payment of flood damage.

111. Defendants' claims are direct charges against the United States Treasury and were presented to the Federal Insurance Administrator, FEMA, or its agents who are officers or employees of the United States Government.

112. The claims presented by Defendants were false or fraudulent in that:

a. Damage to property that was more properly reflected as wind damage, and structural damage due to wind and flying debris was characterized in adjusters reports as "flood damage" even though it did not meet the

definition of "flood" found in the Standard Flood Insurance Policy, 44 CFR Pt. 61, App. A(1).

b. Claims were submitted for property that were outside the area designated as flood damaged by FEMA, where there was no evidence that the damage met the definition of "flood" found in the Standard Flood Insurance Policy, 44 CFR Pt. 61, App. A(1).

c. Defendants submitted claims for flood losses to the NFIA when engineering reports stated that the damages were due to wind, not water.

d. Defendants submitted costs and expenses for adjusting flood claims that were in fact wind or hurricane claims.

e. Defendants permitted agents to backdate insurance applications for flood coverage and submit damage claims when, in fact, there was never any coverage for the flood damages.

f. Defendants inflated flood claims to the maximum amount possible to push off costs due to wind onto the Federal Government.

3. The claims were submitted or caused to be submitted and presented or caused to be presented by Defendants through their agents or employees for payment or approval by the United States Government.

4. The claims were paid by the United States Government, through withdrawals of funds held by the United States Treasury, consistent with the procedure set up under the National Flood Insurance Program.

115. As a direct and proximate result of paying millions of dollars in flood insurance claims that were in fact claims for hurricane damage, the United States Treasury sustained millions of dollars in damages.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam Plaintiff under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT II

VIOLATION OF 31 USC § 3729(a)(2)

116. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 115 as if fully set forth herein.

117. Defendants, State Farm Mutual Insurance Company, E. A. Renfroe, Inc., Jana Renfroe, Gene Renfroe, Alexis King, and the Engineering Defendants, acting through their officers, employees, agents, adjusters, and independent contractors knowingly made, used, or caused to be made or caused to be used, false records in support of false claims.

118. On information and belief, Defendants Allstate, USAA Insurance Company, and Nationwide Insurance Company acting through their employees, officers, agents and independent contractors, knowingly made, used, or caused to be made or caused to be used, false records in support of false claims.

119. Those false records included, but were not limited to:

a. False adjustment reports which were false in that they misidentified the nature of the damage as flood damage where there was no evidence that the damage met the definition of "flood" found in the Standard Flood Insurance Policy, 44 CFR Pt. 61, App. A(1).

b. False factual findings reported to FEMA or the FIA that showed that property was damaged by flood when in fact these properties were outside the area designated as flooded by FEMA.

c. False statements of adjusters reflecting findings of flood damage when the real structural damage had been caused by wind, or rain.

d. False attestations of facts on forms directing payment to be made under flood policies.

e. False statements to homeowners, engineers, adjustors, and others in that one report by the same company concluded that the damage was due to wind, and a second, later, re-written report reflected that the damage was caused by flood.

f. False expense reports submitted to the FIA for NFIP adjustment expenses.

120. Defendants submitted or caused to be submitted these false records or statements in order to get false or fraudulent claims paid or approved by the Government under the National Flood Insurance Program.

121. As a direct and proximate result of the submission of the false claims and false records and reports, the United States Treasury paid millions of dollars in claims for flood insurance that should have been paid by the Defendants.

122. As a direct and proximate result of paying millions of dollars in flood insurance claims that were in fact claims for hurricane damage, the United States Treasury sustained millions of dollars in damages.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam Plaintiff under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT III
VIOLATION OF 31 USC § 3729(a)(3)

123. Relators reiterate, replead and incorporate by reference the information set forth in paragraphs 1 – 122 as if fully set forth herein.

124. Defendants, State Farm Mutual Insurance Company, E. A. Renfroe, Inc., Jana Renfroe, Gene Renfroe, Alexis King, and the Engineering Defendants, acting through

their officers, employees, agents, adjusters, and independent contractors conspired to defraud the Government by getting false or fraudulent claims allowed or paid.

125. On information and belief, Defendants Allstate, USAA Insurance Company, and Nationwide Insurance Company and the Engineering defendants, acting through their employees, officers, agents and independent contractors, conspired to defraud the Government by getting false or fraudulent claims allowed or paid.

126. Defendants conspired with:

a. outside adjusters, including adjusters specially hired to adjust the losses in the Hurricane Katrina area, and directed them to service homeowners with claims. The names of these individual adjusters and adjustment companies are not all known to the Relators but are discoverable by the government.

b. Agents, officers, employees or servants of Forensic Analysis Engineering Corporation, FEAC, to have those agents, officers, employees or servants issue false and misleading engineering analysis reports, and to "correct" any analysis reports that showed that the damage was due to any cause other than flooding.

c. Agents, officers, employees or servants of other Engineering firms, whose names are unknown to Relators presently but who are discoverable by the government.

d. Defendants conspired, on information and belief, with certain homeowners by instructing them to fill out their homeowners insurance claims and hurricane damage claims as flood insurance claims promising to maximize flood insurance claim damage in exchange for not collecting under homeowner's coverages.

i. Defendants, on information and belief, instructed their insureds to fill out their claim forms in this manner so as to misallocate the liability for payment to FEMA, the FIA, and the National Flood Insurance Program.

127. Defendants conspired with engineers who were independent contractors offering them material inducements (continuing business relationships) to submit flood insurance claims instead of hurricane or homeowners claims.

128. Defendants conspired with purportedly independent FEAC and other engineering firms (John Does 1 – 4) yet to be discovered directing them to find flood damage instead of wind damage so as to permit the maximum payout from federal funds rather than from the Defendants' Nationwide and State Farm Mutual Insurance Company's reserves. On information and belief, if an engineering firm refused to change a determination to "flood" State Farm and Nationwide would no longer hire that engineer to provide engineering consulting services.

129. When the engineering firm neglected to find flood damage, the insurance companies would refuse to pay invoices until the reports were reclassified as flood, thereby placing undue pressure upon and exercising control over

purportedly independent contractors for the purpose of furthering the conspiracy to defraud the government.

130. Defendant E. A. Renfroe, Inc., conspired with State Farm and its employee Alexis "Lecky" King. The relationship between parties is set out below:

Defendant	Conspired With
State Farm Mutual Insurance Company	E. A. Renfroe Jana Renfroe Gene Renfroe Engineering Defendants
Nationwide	Engineering Defendants
USAA	Engineering Defendants
Allstate	Engineering Defendants
Alexis King	E. A. Renfroe Jana Renfroe Gene Renfroe
Jana Renfroe	Gene Renfroe State Farm Mutual Ins. Co. Alexis King
Gene Renfroe	Jana Renfroe State Farm Mutual Ins. Co. Alexis King

131. Defendants and their co-conspirators acted with the intent to deceive and defraud the United States Government by pushing off the responsibility for paying hurricane claims on the US Government and by causing purportedly independent engineering firms to re-write reports to transfer responsibility to the FEMA funds available under the NFIP.

132. Defendants took material steps in furtherance of the conspiracy, to wit:

a. State Farm Mutual Insurance Company submitted claims through the FIA to the NFIP and paid losses from federal funds instead of from its reserves.

b. E. A. Renfroe actively policed its loaned adjusters to ensure that no reports of the fraudulent activity were made.

c. Nationwide Insurance Company submitted claims through the FIA to the NFIP and paid losses from federal funds instead of from its reserves.

d. Defendant FABC submitted replacement reports that were modified as a part of the conspiracy to reflect flood water damage instead of wind damage.

e. Alexis King communicated her intent to deceive in numerous emails sent, among other places, to Renfroe' local co-site manager.

133. As a direct and proximate result of the conspiracy to submit false claims the United States Treasury paid hundreds of millions of dollars in claims for flood insurance that should have been paid by the Defendants.

134. As a direct and proximate result of paying hundreds of millions of dollars in flood insurance claims that were in fact claims for hurricane damage or homeowners' insurance damage payable from the reserves of the Defendants' insurance companies, the United States Treasury sustained millions of dollars in damages.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the

United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam Plaintiff under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT IV

VIOLATION OF 31 USC 3729(a)(7)

(Reverse False Claims)

135. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 134 as if fully set forth herein.

136. Defendants knew or in the exercise of reasonable care should have known that claims presented to the United States Treasury for payment under the National Flood Insurance Program were false or fraudulent, and should not have been paid from federal funds.

137. As such, Defendants knew or in the exercise of reasonable care should have known that they were in possession of money that was rightfully that of the United States Government, since the reserves saved by paying claims from the NFIP should in fact have been paid out to policy-holders, and instead, those losses were passed along to the federal treasury.

138. Defendants knew that false records, specifically, false engineering and inspection reports were created in order to justify payment of claims from the NFIP.

139. Defendants also knew that they were in possession of initial engineering reports that showed that the true cause of the damage was wind.

140. The original engineering reports should have been maintained in the claims folders along with all other records associated with the claims.

141. Instead, the engineering documents were pulled and any "original" documents showing wind damage were shredded by "Shred It" or by employees of Defendants.

142. When a document that would normally be a part of a record is removed, spoliated and/or destroyed it is the creation of a false record because the omitted documents create a false impression in the record.

143. Defendants knowingly created false records by omitting, concealing, suppressing, spoliating or destroying the original engineering reports and original invoices.

144. The suppression, omission, concealment, spoliation or destruction of the original reports and records was done to conceal, avoid, or decrease the Defendants' liability to pay the federal government.

145. The actions of the Defendants in creating false records in order to avoid or decrease a liability to the federal government resulted in damage to the federal treasury.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam *Plaintiff* under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT V

Retaliation Under 31 USC § 3730(h)

146. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 145 as if fully set forth herein.

147. At all times relevant herein relators were the joint employees of State Farm Mutual Insurance Company and E.A. Renfroe, Inc. At all times they were issued State Farm business card, State Farm shirts, State Farm Computers, worked out of State Farm offices, applying directives from State Farm in that State Farm, and not the relators, controlled the manner of work performed by the Relators. E. A. Renfroe was a joint employer in that while it did not direct their daily work, it did maintain a supervisory presence that was at all times subservient to and acted upon the instructions of State Farm.

148. As established above, Defendants E. A. Renfroe, Inc., and State Farm Mutual Insurance Company was aware that relators had engaged in conduct protected under 31 USC § 3729 et seq. in that relators told defendants that they had copied evidence of fraud on the US government when they met with the defendants on June 5, 2006. Such conduct reasonably placed the defendants on notice that a false claims act case was a reasonable possibility. *U.S. ex rel. Eberhardt v. Integrated Design and Construction, Inc.*, 167 F.3d. 861 (4th Cir. 1999).

149. At that meeting State Farm attorneys sought to pressure the relators to disclose the contents of what was copied to assist them in defeating relator's claims and for the purposes of hindering the federal government's investigation into the practices that led to the filing of this lawsuit. The presence of attorneys is additional evidence that State Farm was on notice of the likelihood of qui tam litigation.

150. As a result of engaging in protected concerted activity the relators were discriminated against in the terms or conditions of their employment by their then employer State Farm Mutual Insurance Company in that they were locked out of the building, told not to return, and were forced to resign from the storm because State Farm would not let them work. Such conduct constitutes retaliation in that it is reasonably likely to deter employees from engaging in activity protected under the FCA. *Moore v. California Institute of Technology Jet Propulsion Laboratory*, 215 F.3d 949 (8th Cir. 2000).

151. The conduct of copying documents, obtaining emails with directions to engage in felonious conduct, and preserving the evidence of the fraud, when State Farm had been repeatedly employing a "Shred It" service in order to avoid investigative subpoenas by the Mississippi Attorney General, was lawful protected concerted activity as set forth by 31 USC § 3730.

152. After State Farm discharged them from employment, relators were informed by E.A. Renfroe that E. A. Renfroe "accepted their resignations" (which had never been tendered) and E.A. Renfroe, working hand-in-hand with State Farm Mutual Insurance Company, discharged relators in retaliation for their protected concerted activity. Such conduct constitutes retaliation in that it is reasonably likely to deter employees from engaging in activity protected under the FCA. ***Moore v. California Institute of Technology Jet Propulsion Laboratory***, 215 F.3d 949 (8th Cir. 2000).

153. As a result of the retaliation against their protected concerted activities the relators have suffered damages including, but not limited to:

a. lost wages

b. lost fringe benefits

c. being "blacklisted" in the insurance industry such that no other employment is likely or possible.

d. they have incurred attorney's fees and expense in defending a frivolous claim asserted by Renfroe in the Northern District of Alabama.

e. They have suffered emotional distress.

f. They have had their personal computers hacked and information taken from their hard drives at home.

g. They have been followed, photographed, and surveilled and monitored electronically.

h. Their friends and colleagues have been questioned.

i. Former spouses have been interrogated for purposes of learning intimate details that might be used to embarrass and harass the relators.

j. R. A. Renfroe has disseminated untruthful information to its employees and agents in the hopes that this information would damage the reputations and work availability of the relators.

154. As a direct and proximate result of the conduct of the defendants, and each of them, the relators have sustained economic and noneconomic injuries, including but not limited to those set out in Paragraph 153.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally for a fair and reasonable amount to be determined by a jury, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

Respectfully submitted,

THE SCRUGGS LAW FIRM

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ATTORNEYS FOR RELATORS

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues for which a jury is available.

Respectfully submitted,

THE SCRUGGS LAW FIRM

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ATTORNEYS FOR RELATORS

CERTIFICATE OF SERVICE

The undersigned certifies that on this 12th day of April, 2007, a copy of the foregoing Amended Complaint was served on the individuals below by first class mail, certified, return receipt requested to Dunn O. Lampton, US Attorney's Office, 188 E. Capitol St., Suite 500, Jackson, MS, 39201, and by placing the same in the United States Mail, first class postage affixed, certified, return receipt requested, and addressed to Alberto Gonzales, Esq., at the address below:

Dunn O. Lampton, Esq.
United States Attorney
188 E. Capitol Street Ste 500
Jackson, MS 39201

Hon. Alberto Gonzales, Esq.
Attorney General of the United States
5111 Main Justice Building
10th & Constitution Ave. N.W.
Washington, DC 20210

_____
Attorneys for Relators

SMPH

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA EX REL.
CORI RIGSBY AND KERRI RIGSBY RELATORS/COUNTER-DEFENDANTS

VERSUS CASE NO. 1:06CV433-LTS-RHW

STATE FARM FIRE AND
CASUALTY COMPANY DEFENDANT/COUNTER-PLAINTIFF
AND
FORENSIC ANALYSIS ENGINEERING CORPORATION;
HAAG ENGINEERING CO.; AND ALEXIS KING DEFENDANTS

VIDEOTAPED DEPOSITION OF CORI RIGSBY

APPEARANCES:

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REPRESENTING STATE FARM - PRO HAC VICE

ALSO PRESENT: Tamarra Rennick, State Farm Representative
Aaron Dunbar, Videographer

Taken at the instance of State Farm
In the Law Offices of Butler Snow O'Mara Stevens
1020 Highland Colony Parkway, Suite 1400
Ridgeland, Mississippi 39157
On June 25, 2010, at 9:00 a.m.
REPORTED BY: SHAUNA W. STANFORD, CSR
CSR NO. 1380

sending something to Joe

Q Okay What about Michael Kunzelman of the AP? Are you aware of Bethy Jones sending anything related to this case --

A No I'm not aware of that

Q Did you meet with Congressman Gene Taylor in 2006?

A. I met with Gene Taylor If you say it's 2006, I'll agree with that

Q Well, when -- do you recall? I mean, was it at your house on Mockingbird Circle or --

A. It was at my house on Mockingbird Circle I met with him one time, but I don't remember when it was

Q Okay Was it while you were still working for Renfroe?

A I don't remember

Q Okay And what was -- what was the purpose of your meeting with Congressman Taylor at that time?

A I don't really remember the purpose Dick set it up, and Mr Taylor came by the house We met him for the first time And he stayed an hour or so, and we visited about stuff I don't really remember the context of the meeting

Q Well, at that time did you or your sister or

CERTIFICATE OF COURT REPORTER

I, SHAUNA W. STANFORD, Certified Shorthand Reporter and Notary Public in and for the State of Mississippi at large, hereby certify that the foregoing pages contain a full, true, and correct transcript of the proceedings as taken by me at the time and place heretofore stated in the aforementioned matter and later reduced to typewritten form by me to the best of my skill and ability.

I further certify that I placed the witness under oath to truthfully answer all questions in this matter under the authority vested in me by the State of Mississippi.

I further certify that I am not in the employ of or related to any counsel or party in this matter and have no interest, monetary or otherwise, as to the final outcome of this proceeding.

WITNESS MY SIGNATURE AND SEAL, this the 28th day of June, 2010.

_____

SHAUNA W. STANFORD, CSR

CSR NO. 1380

My Commission Expires:

April 12, 2012

Westlaw

152 Cong. Rec. H6903-02, 2006 WL 2707701 (Cong.Rec.)

Congressional Record — House of Representatives
Proceedings and Debates of the 109th Congress, Second Session
Thursday, September 21, 2006

*H6903 BAD FAITH ACTIONS AND POLICIES OF STATE FARM INSURANCE IN MISSISSIPPI

Mr. TAYLOR of Mississippi.

Mr. Speaker, I ask unanimous consent to speak out of order and to address the House for 5 minutes.

The SPEAKER pro tempore.

Without objection, the gentleman from Mississippi is recognized for 5 minutes.

There was no objection.

Mr. TAYLOR of Mississippi.

Mr. Speaker, on Wednesday of this week, Mr. Edward Rust, Jr., the CEO of State Farm Insurance Company, was supposed to be in Washington. I had hoped that I would have the opportunity to speak to him on behalf of the people of south Mississippi.

State Farm is one of three firms that for thousands of south Mississippians has denied their claims on wind policy, some of them for over $1 million; have said that they are not going to give a dime as a result of what happened at Hurricane Katrina.

Had Mr. Rust been there, I also would have had the opportunity to tell him that last Saturday I met with two whistleblowers, two sisters, Cori and Carey Rigsby, who walked away from jobs that paid well over $200,000 a year, investigating claims for State Farm, because they felt that company was abusing the people who paid for their policies, that their company was engaging in fraudulent behavior by denying these claims. Instead of being rewarded by that subcontractor to State Farm for telling the truth, they are being sued by that subcontractor for telling the truth.

So, Mr. Rust, if you had been there, I would have presented you with this letter, detailing what I think you have done to the taxpayers and to the people of south Mississippi. But since you were not there, I am going to put it in the Congressional Record and mail you a copy.

But there are two things I want you to know. You see, when you didn't pay people's wind claims in south Mississippi, you hurt them individually. You hurt average Joes like Joe Dee Benvenutti, who, interestingly enough, is also an insurance salesman; or guys like Mike Chapoton, who is a banker; or Dr. Leroy McFarland, who was my family's physician when I was a kid, and now in his 70s has been denied over $1 million claim.

But you also denied guys like Senator Trent Lott and U.S. Judge Lou Guirola. It is one thing to tell a banker or a former corrugated box salesman that you can't read a policy, but I think it is something else to tell a Federal judge that he couldn't read his policy, to tell a U.S. Senator with a law degree from the University of Mississippi apparently he can't read his policy.

If they are doing that to the average Joes, I am sorry, if they are doing that to the bigshots like U.S. Senators and Federal judges, then the question is, what are they doing to grandmothers? *H6904 What are they doing to corrugated box salesman? What are they doing to high school teachers who don't have a prayer and who have been told that their cases could take years to be heard?

Mr. Rust, you not only denied those people, but, in my opinion, you also stole from the taxpayers. Let me walk the taxpayers through this. Flood insurance is paid through you, the taxpayers. It is heavily subsidized this year to the tune of over $20 billion. According to the Rigsby sisters, your agents were instructed to walk on a piece of property, and, without looking at any of the evidence, blame it all on the water. It was all water; offer to pay that water claim immediately, and say, we will get back to you on the wind, knowing full well that an investigation would not take place on the wind policy, and that the only check those people are going to get would be from the taxpayers.

You see, that broke the law, because under the False Claims Act, when you ask your Nation to pay a bill that it

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should not pay, you are liable for triple damages and a $10,000-per-incident fine. I think that is exactly what went on. This House has passed language asking the inspector general of the Homeland Security Department to look into that. Unfortunately, the other body has not acted on that. Senator

Lott, for his part, has passed the funding for that investigation for $3 million, but this House has not voted on that.

So, in return for your behavior towards the people of south Mississippi, where over 1,000 south Mississippi families feel like the only chance they have of any justice is to go to court, I am going to try to do three things in my time remaining as a Member of this House.

Number one, I am going to push for that investigation, because I am confident in my heart that you stole from the taxpayers when you did that.

The second thing is I am going to work to remove your antitrust exemption. I bet you it would surprise the average American to know that if the two hardware stores in town called each other up and said, let's charge this much money for a gallon of paint, if they were caught doing that, they would go to jail. But Allstate can call State Farm, who can call Nationwide, who can call Farm Bureau, and they can say, this is how much we are going to charge for an insurance premium, and this is what the benefit is going to be. Yes, let us all play hardball and not pay any claims. It is perfectly legal. Check my facts on that, it is perfectly legal.

Look at your own pay stub. I would guarantee probably that at least the fourth biggest expenditure in every American family is insurance. Do you want to know one reason why it is so expensive? There is no real competition. They are exempt from the antitrust laws. No one should be above the laws. I am going to work to take away that exemption.

Third thing is I am going to work to pass an all-peril policy so that the people of Mississippi, Florida, Alabama or Texas don't have to stay in their house with a video camera to record how their house was destroyed to get some justice out of you.

Lastly, I am going to work for Federal legislation because you have picked the States apart. You are picking on 50 little States, 50 sets of rules. You are taking advantage of the citizens of this country when you ought to be dealing with our Nation's government.

Mr. Speaker, I submit for printing in the

Congressional Record a copy of a letter from me to Mr. Edward B. Rust, CEO, State Farm Insurance Companies, dated September 20, 2006.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 20, 2006.
Mr. Edward B. Rust, Jr.,
CEO, State Farm Insurance Companies, Bloomington, IL.

DEAR MR. RUST: I am writing to make you fully aware of the consequences of the bad faith actions and policies that State Farm has carried out against the people of South Mississippi since Hurricane Katrina.

First, allow me to establish a few basic facts about Katrina's damage in Mississippi. There is no property in Mississippi that was damaged solely by flooding. More than 300,000 properties, including many that were hundreds of miles inland, sustained wind damages but no flooding. Properties nearest the coastline were damaged or destroyed by some combination of hurricane winds and storm surge.

State Farm's assertion that hundreds of coastal homes were destroyed without suffering any wind damage has been easily and overwhelmingly refuted by every meteorologist, engineer, eyewitness, or investigator who is not on the payroll of an insurance company or an insurance company's contractor. Every community on the Mississippi Coast suffered four or five hours of high hurricane winds and powerful gusts before the surge. High winds continued to cause additional damage during the surge, and the wind and water in combination caused the worst destruction.

State Farm recently reported that it has handled more than 84,700 property claims in Mississippi, yet requested engineering reports for only 1,100 of the claims. Since engineering reports are needed for the purpose of determining whether damage was caused by wind or by water, State Farm must have acknowledged that other 83,600 properties were damaged by winds alone. In other words, State Farm has paid claims for wind damage far inland where you could not blame flooding, while denying wind claims on the coast where the winds were much stronger, but where you could blame flooding.

Many homeowners near the coastline had flood insurance, but not for the full value of their properties. Hundreds of homeowners who bought every property insurance policy that was available to them-homeowners, windstorm, and flood-are nevertheless left with huge uncovered losses because State Farm and other insurers have decided that only

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the federal flood insurance program, and federal taxpayers, should pay on homes that were destroyed by the combination of wind and water.

State Farm's twisted legal argument that the anti-concurrent causation language in your policies allows you to deny wind claims, even where you acknowledge that wind was a cause of the damage, is an especially cynical and despicable act.

Your company's betrayal of its policyholders has had horrible financial consequences for families and communities at their time of greatest need. Some policyholders will file bankruptcy and default on their mortgages. The lucky ones will recover only after depleting their savings and retirement accounts and assuming large new debts. Worst of all, I fear that your actions will result in unnecessary deaths in future disasters. If you succeed in establishing that the burden of proof is on policyholders to prove that wind and wind alone caused damage, I am convinced that some people who should evacuate will stay behind next time to record the damage.

State Farm and other insurers have contracts with the National Flood Insurance Program that permit you to sell flood policies and adjust flood claims that are backed by federal taxpayers. When your adjusters assigned all damage to flooding, I believe you committed fraud against the United States government. State Farm's contract with NFIP obligates your company to apply the same standards to flood claims as you apply to your own claims. The federal regulations do not empower you to assume flood damage anywhere it is possible, while denying wind claims unless no other cause is possible.

I believe that State Farm and other companies violated the False Claims Act by manipulating damage assessments to bill the federal government instead of the companies. I have written the Justice Department to recommend that the Katrina Fraud Task Force investigate whether insurance companies defrauded federal taxpayers by assigning damages to the federal flood program that should have paid by the insurers' wind policies.

In late June, the House approved my amendment to the Flood Insurance Reform and Modernization Act to instruct the Inspector General of the Department of Homeland Security to investigate the Katrina claims practices of the insurance companies that adjusted flood claims. Sen. Trent Lott added a similar provision to the Homeland Security Appropriations Act.

Even before Katrina, I was an original cosponsor of legislation introduced by Rep. Peter DeFazio to repeal the antitrust exemption that was granted to the business of insurance by the McCarran Ferguson Act. After Katrina, this issue will be much higher on my agenda. It is obvious that the large insurance companies conspired together to manipulate the claims process. It also is clear that state resources were inadequate to protect consumers from underhanded insurance practices on such a large scale.

In the decades since enactment of McCarran Ferguson, the federal government has assumed responsibility for insuring some risks that the insurance industry refuses to cover. Medicare and Flood Insurance are obvious examples. The federal government also provides disaster assistance and loans to individuals, businesses, and communities to help offset their uninsured losses. It does not make sense for the federal government to fill in the gaps left behind by the insurance industry and yet have very little role in regulating and investigating insurance companies and their practices.

In the next session of Congress, I plan to press for a vote on legislation to have the federal government take responsibility for regulation of insurance. It is ridiculous for the industry to claim that insurance is not "interstate commerce" rightfully under federal jurisdiction when companies stop issuing policies in New York and Florida because of claims in Mississippi and Louisiana. Congress and federal regulators should have clear responsibility for oversight of the insurance industry. *H6905

I also pledge to work tirelessly to enact a natural disaster insurance program that provides for all-perils insurance coverage. There is no reasonable way to distinguish the wind damage from the water damage from a major hurricane. The worst destruction almost always results from the combination of the two. The division of wind and flood coverage guarantees that legal disputes will consume millions and millions of dollars for engineering reports and legal fees instead of going to pay damage claims.

I cannot support plans to provide federal reinsurance for the current system that allows insurance companies to shift their liabilities to taxpayers and property owners. Any effort to provide a federal reinsurance backstop for insurance losses must insist on elimination of the exclusions and gaps in property coverage. Homeowners need to be able to purchase insurance and know that disaster damage will be covered.

Finally, I will continue to urge the leadership and my colleagues in Congress to undertake detailed hearings and investigations of insurance industry practices. Please know that the actions of your company have helped make the

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case that Congress and the federal government must move to regulate and investigate your industry in order to protect consumers and taxpayers.

Sincerely,
GENE TAYLOR,
Member of Congress.

152 Cong. Rec. H6903-02, 2006 WL 2707701 (Cong.Rec.)

END OF DOCUMENT

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Statement

of

U.S. Representative Gene Taylor
Fourth District, Mississippi

before the

Financial Services Committee
Subcommittee on Oversight and Investigations

regarding

Insurance Claims Payment Processes on the Gulf Coast

February 28, 2007

Thank you, Chairman Watt, for conducting this hearing and opening an investigation of insurance fraud after Hurricane Katrina. I am very grateful to you, Chairman Frank, and Chairwoman Waters for hearing my concerns and agreeing to pursue these important matters within the Financial Services Committee.

I will summarize my statement, but, if there are no objections, I would like to submit my full written statement for the record, to include copies of insurance documents and fraudulent engineering reports. These are samples of a much larger problem. I have additional documents on my website and will be happy to provide them to the committee.

After Katrina, several insurance companies conspired with engineering and adjusting firms to commit fraud against their policyholders and federal taxpayers.

Company officials instructed adjusters to assign all damages to the federally-backed National Flood Insurance Program in cases where wind caused much of the damage.

Engineering firms cherry-picked data and manipulated evidence to favor insurance companies.

Insurance, engineering, and adjusting company managers, who never laid eyes on the damaged properties, reversed the observations and conclusions of the engineers who conducted on-site damage assessments.

In light of these facts, I respectfully request that the Financial Services Committee take action on three specific issues, all of which fall under the Committee's jurisdiction. First, I ask the subcommittee to conduct a full investigation of the fraud against consumers and taxpayers so that the responsible parties can be held accountable for their actions.

Second, I look forward to working with you on a flood insurance reform bill to eliminate the conflict of interest that currently allows insurance companies to defraud U.S. taxpayers. To such ends, Congress should prohibit any company that participates in the

flood program from using anti-concurrent causation language to underhandedly bill taxpayers for wind damage.

Third, I urge the Committee's consideration of H.R. 920, the *Multiple Peril Insurance Act*. This bill- cosponsored by both Democrats and Republicans - would create a new option within the flood insurance program to allow property owners to purchase wind and flood coverage in one single policy.

As you know, the flood insurance program contracts with insurance companies to allow the companies to sell flood policies, which are guaranteed in turn by the federal government. The so-called "Write Your Own" Companies also agree to adjust the flood claims. As a cost-saving measure, NFIP allows the company to use a single adjuster for both claims. Any person with a shred of common sense can tell you that this practice creates an obvious conflict of interest. The current arrangement presents insurance companies with an easy opportunity to manipulate claims in order to bill the federal government and save insurance companies and their shareholders a great deal of money.

The contract between the insurance company and the flood insurance program requires the company to represent the interests of the federal government and its own interests when adjusting claims. The federal regulations state explicitly that "the primary relationship between the Write Your Own Company and the Federal Government will be one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended." (44 CFR 62.23(f))

The federal regulations also state that "the entire responsibility for providing a proper adjustment for both combined wind and water claims and flood-alone claims is the responsibility of the Write Your Own Company." (44 CFR 62.23(i)(1»

Some insurance companies did not act in good faith to fulfill their fiduciary duty to federal taxpayers when adjusting combined wind and water claims after Hurricane Katrina. State Farm, Allstate, Nationwide, USAA, and other insurers adopted procedures that, *a priori*, attributed all damage in the surge area to flooding and then forced homeowners to prove otherwise.

Mississippi Insurance Commissioner George Dale issued a bulletin one week after Katrina, declaring that the insurance companies had to pay wind claims unless they could prove that flooding was the cause. The companies ignored the bulletin, and the state did nothing to enforce it. As a result, thousands of Mississippians had no choice but to sue to get their insurance companies to honor their contracts. Mississippi Attorney General Jim Hood also filed suit and began a state investigation.

Seventeen months after Katrina, U.S. District Judge L.T. Senter, Jr. affirmed in *Broussard* v. *State Farm* that the insurance companies have the burden of proof. State Farm had not proven its case. In response, the company ran to the *Wall Street Journal* editorial board and claimed that this was a radical ruling. In reality, insurance companies have always had the burden of proof when denying a claim, be it in Mississippi or any other state.

While several companies denied claims for wind damages inside the surge zone, State Farm was the most aggressive in its efforts to defraud their policyholders, using a network of selected contractors to act as accomplices.

On September 13, 2005 - two weeks after Katrina hit Mississippi - State Farm issued a directive from its headquarters in Bloomington, Illinois in a document titled "Wind Water Claim Handling Protocol." The Wind-Water Protocol instructed State Farm adjusters that "[W]here wind acts concurrently with flooding to cause damage to the insured property, coverage for the loss exists only under flood coverage, if available."

In effect, the Wind-Water Protocol declared that State Farm's wind insurance would not pay for damage caused by wind when they could blame any amount of damage on flooding. Where wind and water both caused damage, adjusters were directed to bill the federal government and, by extension, taxpayers for the full loss if the property was covered by flood insurance.

State Farm's so called "anti-concurrent causation clause" should be called what it really is - a concurrent fraud clause. Its purpose is to cheat both policyholders and taxpayers at the same time. Any attempt to enforce this clause is a bad faith violation of the company's fiduciary duty to federal taxpayers under its contract with the National Flood Insurance Program.

State Farm will argue that it paid more than $1 billion in Katrina claims in Mississippi

and settled more than 95% of its claims. Those numbers only help to prove the fraud that they categorically deny.

State Farm and other insurers paid wind claims in all 82 counties in Mississippi, as far as 300 miles inland. According to the insurance industry's own data, Katrina's winds caused billions of dollars of structural damage far beyond the storm surge area. Yet, near the coastline, where the strongest hurricane winds pounded homes for four to five hours before the storm surge, insurance companies manipulated the adjustment process to deny wind claims.

I urge the subcommittee to seek the testimony of Cori and Kerri Rigsby. The Rigsby sisters were claims adjusters working for E.A. Renfroe and Company. Renfroe worked exclusively for State Farm. The sisters were disturbed by the fraud being committed by State Farm and Renfroe officials, so they copied incriminating documents and gave them to federal and state law enforcement officials. The Scruggs Law Firm represents the sisters in a *False Claims Act* filing against State Farm and Renfroe. That federal fraud case is still active.

In response, RenFroe filed a retaliatory suit against the Rigsby sisters and obtained an injunction that required the sisters to return the copies of documents they provided to state and federal investigators. Because of the Renfroe suit, the only documents currently available to the public are those that are included in the *False Claims Act* filing.

These documents clearly demonstrate that Renfroe and State Farm covered up engineering reports that concluded - in the most explicit terms that damage was caused by wind. Claims managers who never laid eyes on the damaged properties pressured engineers to revise their observations and conclusions. In some cases, claims managers sent a second engineer to write a report more favorable to State Farm.

The Rigsby sisters photocopied an engineering report with a handwritten note attached that said, "Put in Wind file - DO NOT Pay Bill. DO NOT discuss." That report concluded that first floor damage had been caused primarily by wind. State Farm hid that report and ordered a second report. The second engineer blamed the damage on flooding.

The Rigsby sisters report that, within days after Katrina, State Farm coached its adjusters to pay the policy limits on flood insurance without a site inspection or an engineering report. In sharp contrast, State Farm required an engineering report before paying any wind claims.

Each engineering firm was provided with an analysis by Haag Engineering of Dallas. State Farm and Haag have a long history together that includes bad faith judgments in the courts of several states. Most recently, State Farm, Haag, and Renfroe were found to have acted in bad faith to deny coverage ofTornados in Oklahoma in 1999. Because of that verdict and the many complaints about Haag after Katrina, State Farm has been forced to temporarily suspend working with Haag.

Haag's Katrina report makes the ridiculous claims that the NOAA Hurricane Research Division overestimated the wind speeds by 25 percent, and that the u.s. Navy Meteorology and Oceanography Command missed the timing of the storm surge by one hour. Haag based its flawed conclusions on inland wind data because wind towers on the Mississippi Gulf Coast were knocked out by high winds. The Navy spent more than a month analyzing all available weather and ocean data to recreate Katrina's surge, but Haag dismissed the Navy's findings based on an amateur video filmed from a hotel parking garage.

Rimkus Consulting Group of Houston also investigated wind claims for State Farm and other insurance companies. Rimkus established an office in Ridgeland, Mississippi, near Jackson, about 150 miles inland. Rimkus engineers would conduct on-site assessments and email their reports to Ridgeland.

The Merlin Law Group has documented several cases in which the engineer who inspected the home site concluded that damage was caused by wind, but Rimkus staff in Ridgeland changed the observations and altered the conclusions in the reports without the knowledge or consent of the engineers who saw the properties first-hand. A few of the affected homeowners are here today to offer their accounts of Rimkus' fraudulent practices.

I encourage you to invite testimony from the engineers whose reports were revised without their consent. I have attached two Rimkus cases to my statement, but there are

several more on my website. These are only a few of the cases that clearly document the pervasive fraud perpetrated on homeowners and U.S. taxpayers alike. There are many more cases where the adjustment process was manipulated to defraud policyholders, but the fraud cannot be documented at this time.

Again, I thank you for holding this hearing and initiating this investigation. I look forward to working with you to ensure that consumers and taxpayers are protected from these fraudulent insurance practices in future disasters.

Supplemental Materials to Testimony of Rep. Gene Taylor

Committee on Financial Services

Subcommittee on Oversight and Investigations

February 28,2007

State Farm Wind/Water Claim Handling Protocol	
McIntosh A-I st Engineering Report - Wind damage	4
McIntosh B - 2nd Engineering Report - Flood	7
Nguyen A Engineering Report - Wind/possible tornado	11
Nguyen B Engineer forced to defend report to State Farm	16
Beckham A - On-site engineering report - Wind & flood	18
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#	From	To	Cc	Sent	Subject
	Sid Backstrom	Ainsley Perrien		Mon 2/26/2007 7:26 PM	Re: MDA Letter
	Zach Scruggs	Ainsley Perrien	'Sid Backstrom'; 'Mike Moore'	Mon 2/26/2007 8:10 PM	blog about Mike Moore's involvement
	Ainsley Perrien	Zach Scruggs		Mon 2/26/2007 9:33 PM	Re: blog about Mike Moore's involvement
	Zach Scruggs	Ainsley Perrien		Mon 2/26/2007 10:55 PM	FW: State Farm may show healthy 2006 profit
	Ainsley Perrien	Zach Scruggs		Mon 2/26/2007 11:16 PM	Re: State Farm may show healthy 2006 profit
	Ainsley Perrien	DickScruggs@aol.com; di...	Shannon O'Reilly	Tue 2/27/2007 12:17 AM	release to go out w/letter
	Sid Backstrom	Ainsley Perrien		Tue 2/27/2007 11:21 AM	RE: release to go out w/letter
	Ainsley Perrien	sbackstrom@scruggsfirm...		Tue 2/27/2007 11:24 AM	RE: release to go out w/letter
	Beth Jones	Ainsley Perrien		Tue 2/27/2007 12:18 PM	RE: Plane is very late
	Ainsley Perrien	Beth Jones		Tue 2/27/2007 12:20 PM	RE: Plane is very late
	Ainsley Perrien	Zach Scruggs		Tue 2/27/2007 2:23 PM	RE: Updated agreement
#	Ainsley Perrien	Beth Jones		Tue 2/27/2007 2:59 PM	Pls print attached
#	Zach Scruggs	Ainsley Perrien		Tue 2/27/2007 6:48 PM	FW: Gene Taylor's testimony for O & I hearing 2-28-07
	Beth Jones	'Sid Backstrom'; 'Zach Sc...		Wed 2/28/2007 10:13 AM	FW: Rooms at The Bayu Riviera
#	Ainsley Perrien	bethjones@scruggsfirm.c...		Wed 2/28/2007 10:20 AM	[Fwd: need someone to watch hearing today]
#	Ainsley Perrien	cecilanngrimes@scruggsf...		Wed 2/28/2007 11:00 AM	remarks
#	Beth Jones	Ainsley Perrien		Wed 2/28/2007 11:14 AM	Sunherald.com
#	Cecil Ann Grimes	Ainsley Perrien		Wed 2/28/2007 11:22 AM	FW: remarks
	Beth Jones	Ainsley Perrien		Wed 2/28/2007 11:34 AM	GQ Magazine
	Ainsley Perrien	Zach scruggs		Wed 2/28/2007 12:39 PM	Where r u
	Robert B. Vanegas	HNR@ScruggsFirm.Com	Ainsley Perrien	Wed 2/28/2007 2:29 PM	hearing start time
	Robert B. Vanegas	HNR@ScruggsFirm.Com	Ainsley Perrien	Wed 2/28/2007 4:10 PM	Re: Robert Hartwig
	Sid Backstrom	Ainsley Perrien		Wed 2/28/2007 7:50 PM	I am growing roots
	Ainsley Perrien	Sid Backstrom; Zach Scru...		Thu 3/1/2007 7:45 AM	directions
	Sid Backstrom	Ainsley Perrien		Thu 3/1/2007 8:22 AM	Re: directions
	Ainsley Perrien	Sid Backstrom		Thu 3/1/2007 8:57 AM	RE: directions
	Sid Backstrom	Ainsley Perrien		Thu 3/1/2007 9:06 AM	Re: directions
	Beth Jones	Ainsley Perrien		Thu 3/1/2007 9:30 AM	FW: Lisa from WLOX
	James Bosworth	Zach Scruggs	Ainsley Perrien	Thu 3/1/2007 1:23 PM	Proposed Blog
	Ainsley Perrien	Zach scruggs		Thu 3/1/2007 2:53 PM	Fw: Proposed Blog
	Ainsley Perrien	Sid Backstrom; Zach Scru...		Fri 3/2/2007 7:48 AM	miss me?
	Sid Backstrom	Ainsley Perrien; 'Sid Back...		Fri 3/2/2007 9:14 AM	RE: miss me?
#	Maggie Ogle	bethjones@scruggsfirm.c...	Sandy Libby; Ainsley Perrien	Fri 3/2/2007 9:50 AM	Scruggs Invoice # 11553 for March 2007
	Sid Backstrom	Ainsley Perrien		Fri 3/2/2007 11:28 AM	Re: miss me?
	Zach Scruggs	Ainsley Perrien; 'Sid Back...		Fri 3/2/2007 11:33 AM	RE: miss me?
	Ainsley Perrien	Sid Backstrom		Fri 3/2/2007 12:13 PM	RE: miss me?
	Ainsley Perrien	Zach Scruggs		Fri 3/2/2007 12:13 PM	RE: miss me?
#	Ainsley Perrien	Beth Jones		Fri 3/2/2007 12:29 PM	March bill and pat's bill
	Zach Scruggs	Ainsley Perrien		Fri 3/2/2007 12:43 PM	FW: What's happening with the hearing? Anything likely today?
	Ainsley Perrien	Zach Scruggs		Fri 3/2/2007 1:06 PM	RE: What's happening with the hearing? Anything likely today?
	Sid Backstrom	Ainsley Perrien		Fri 3/2/2007 1:08 PM	Re: miss me?
	Ainsley Perrien	Sid Backstrom		Fri 3/2/2007 1:13 PM	RE: miss me?
	Sid Backstrom	Ainsley Perrien		Fri 3/2/2007 2:48 PM	Fw: Russia could respond to U.S. radar in Caucasus - Air Force chief

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION
Case No. 1:06:cv-433-LTS-RHW

UNITED STATES OF AMERICA ex rel, CORI RIGSBY and KERRI RIGSBY,
Relators/Counter-Defendants,
v.
STATE FARM MUTUAL INSURANCE COMPANY,
Defendant/Counter-Plaintiff,
and
FORENSIC ANALYSIS ENGINEERING CORPORATION, HAAG ENGINEERING CO., and ALEXIS KING,
Defendants.

Rule 30 (B)(6) Deposition of The Rendon Group
Through its Designee, SANDRA LIBBY
Washington, D.C.
July 29, 2010
Reported by:
Mary Ann Payonk, Certified Realtime Reporter
Job No. 32237

July 29, 2010

10:05 a.m.

Rule 30 (b)(6) Deposition of The Rendon Group, through its designee, Sandra Libby, held at the offices of Fried, Frank, Harris, Shriver & Jacobson, LLP, 1001 Pennsylvania Avenue, N.W., Washington, D.C., pursuant to Notice before Mary Ann Payonk, Certified Realtime Reporter and notary public.

APPEARANCES:

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Appearances (Cont'd.):

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ALSO PRESENT:

Mia Marbury, Legal Video Specialist
Aaron Tucker, Esq.,
Fried, Frank, Harris, Shriver &
Jacobson, LLP

S. Libby

office, to myself at our office at Fried Frank on July 28th, 2010.

And to the best of my knowledge, Exhibit 8, the document marked Exhibit 8, is a printout of all of the files that were located on that CD-ROM that is marked as Exhibit 7.

MR. ROBINSON: Mr. Gaspar, now that we have that stipulation, and I'll take each of the three productions separately, unless you want me to group them together, I'm about to ask you whether you're willing to stipulate to the authenticity of each of the three. I think let's do it one at a time just to be safer.

MR. GASPAR: All right.

MR. ROBINSON: The first production that Ms. Libby has testified about, the one that was a compact disk containing a single PDF file beginning at the Bates number TRG however many zeroes and 1 and ending at Bates number TRG17424, is TRG willing to stipulate that all of the

documents contained -- or files, I guess I should say, contained on that disk are, in fact, authentic?

MR. GASPAR: Yes.

MR. ROBINSON: Okay. And then with respect to the second production contained on the disk that is Libby Exhibit 5 and revealed files, Exhibit 6, is TRG willing to stipulate that the entirety of those files in that production is, in fact, authentic?

MR. GASPAR: Yes. With respect to Exhibits 5, 6, 7, and 8, I am accepting Mr. Tucker's representation that the deposition exhibits are true and correct and complete copies of the disks that I delivered to him. I have no reason to doubt that the case is anything other than that.

I have not had the opportunity to do a precise comparison between the contents of those disks and the list of files that appear in Exhibit 6 and 8, but again, I have no reason to believe

S. Libby

presence of the witness, if you prefer that I do so.

MR. ROBINSON: Let's go off the record and see if we can work it out.

MR. GASPAR: Okay.

(Discussion held off the record.)

BY MR. ROBINSON:

Q. All right, Ms. Libby. We're going to try this again. All of the production that TRG has made in this lawsuit to date, all three parts of it in response to Judge Facciola's order, all of those materials regardless of their format, would you agree that they are materials that TRG has maintained in the normal course of its business activities?

A. Yes.

Q. And that at least those materials that were created by someone at Rendon are memoranda, reports, records, or data compilations of acts, events, conditions, opinions, or diagnoses that were made at or near the time by or from information transmitted by a person or persons with knowledge? I'm limiting it to those materials

S. Libby

that were created by someone at Rendon

A. And by "knowledge," you mean understanding of the issues in the case? Or --

Q. It means that they had knowledge of the matters that they put into the document if they were, in fact, creating the document.

A. Yes.

Q. And so all of these documents that comprise the production, whatever their source, are business records of Rendon, though; correct?

A. Business records that we are maintaining, yes.

Q. In the normal course of business?

A. At -- yes.

MR. ROBINSON: Okay. Give me just a moment. Let's go off the record.

(Discussion held off the record.)

BY MR. ROBINSON:

Q. Ms. Libby, you've described in detail the electronic search efforts that you and Mr. DeSimone made in order to comply with Judge Facciola's order, Exhibit 3. Did TRG make any efforts to look for hard-copy

C E R T I F I C A T E

DISTRICT OF COLUMBIA:

I, MARY ANN PAYONK, CRR-RDR, CBC, CCP, CLR, shorthand reporter, do hereby certify:

That the witness whose deposition is hereinbefore set forth was duly sworn, and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of July, 2010.

_____

MARY ANN PAYONK, CRR-RDR, CBC, CCP, CLR
Shorthand Reporter

From: Ainsley Carden
To: John Bandon
Subject: The day
Date: Wednesday, January 24, 2007 11:24:00 PM

Hi -- I am in Pascagoula MS....It looks like a bomb went off (my motel is really gross) around here...only thing rebuilt is MS version of Rockville Pike, Denny's and Popeyes.

Sorry about not writing...putting out fires and making friends..

Please ask James if you can see a version of the editorial.....I haven't seen it...but if you ask...(I know he's busy on lots of stuff).

Nothing major happened today...other than Scruggs was very upset at SF over something to do with the whistleblowers in the case (I'll tell you sometime) and he was going to use the opportunity he has to be on CNN live at 7:15 am to attack the company....I spent the last 3 or 4 hours on that. I told SF that Scruggs was so mad that he said last time this happened to him, they made a movie about it (Jeffrey Wigand) and that he was committed to not leaving "any bodies on the beach" (the whistle blower sisters)..

Anyway, I think all is fine for now. Scruggs is a piece of work. His son said to me, hell you're on the gulf coast with him (we flew down tonight to be up to do CNN) you know how I feel, and I know how you feel....you're the only one down there..do everything you have to to stop him from blowing this deal.....

Ramblings of an exhausted person. Or explanation on why you haven't heard from me.

I spoke to Bryan about the money. I have a general idea of how to proceed and now we're ready to talk to you.

I'll give you the list tomorrow. I went to have the conversation on the plane back to DC...by the way, he'll be at the Washington Hilton (I believe) at a DNC function first week in Feb. We could all meet then.

good night. ainsley

From:	Ainsley Perrien
To:	John Bender; Bowie Rich; Robert Page
Subject:	FW: Lott - Taylor Letter
Date:	Thursday, February 15, 2007 8:06:00 PM
Attachments:	Lott - Taylor Letter.pdf

Hi -- This (not public yet) is the letter from SKG to the "Hill" on behalf of the Rigsby girls...(fyi -- I pushed for this!!)

It gives us good background and at some point we can use it.

thanks for all being so nice today.

Ainsley

From: Zach Scruggs [mailto:zachscruggs@scruggsfirm.com]
Sent: Thursday, February 15, 2007 6:21 PM
To: 'Ainsley Perrien'
Subject: FW: Lott - Taylor Letter

This is what I have been working on today. Now to the blog.

SCRUGGS
LAW FIRM

(A Professional Association)

129 A Courthouse Square Post Office Box 1136 Oxford, Mississippi 38655
(p) 662.281.1212 (f) 662.281.1312
www.scruggslawfirm.com

Richard F. Scruggs
Sidney A. Backstrom (MS & LA)
Zach Scruggs
David Shelton (MS & VI)

February 15, 2007

United States Senator Trent Lott
487 Russell Senate Building
Washington, DC 20510

United States Representative Gene Taylor
2269 Rayburn House Office Building
Washington, DC 20515-2405

Re: ***Hurricane Katrina***

Dear Trent and Gene:

It is my understanding that the Financial Services Committee of the House of Representatives, Oversight Subcommittee Chairman Mel Watt presiding, will be holding hearings starting on February 28, 2007 on the Insurance Industry's conduct and performance in the adjustment of claims related to Hurricane Katrina. I also understand that there are plans for other Committees in both the House and Senate to look into insurance industry practices following Katrina. I respectfully suggest that two of my clients, Cori and Kerri Rigsby, would be very helpful to Financial Services Committee's investigation and those of other Committees in the House and Senate. I therefore respectfully encourage the Financial Services and other Committees to invite and/or subpoena the Rigsbys, State Farm, and other State Farm controlled vendors such as E.A. Renfroe and HAAG, to testify and provide documents at those hearings.

The Rigsbys are sisters and both are former employees of E.A. Renfroe, a claim adjusting company that worked exclusively for State Farm Insurance Company. Renfroe, through the Rigsbys and other adjusters, perform adjusting services for State Farm following catastrophes like Hurricane Katrina. State Farm has been in trouble in the past for its use of non-independent surrogates like Renfroe and HAAG Engineering, a structural engineering company also controlled by State Farm, in its adjustment and denial of insurance claims in other mass catastrophes. In May 2006, a State Court in Oklahoma found State Farm its duty of good faith and fair dealing to a class of State Farm "recklessly disregarded" policyholders who suffered catastrophe tornado damage in 1999 based on its use of Renfroe and HAAG Engineering.

The Rigsbys, who are from the Mississippi Gulf Coast, were dispatched in September 2005 by Renfroe and State Farm to adjust property claims for damage caused by Hurricane Katrina. They and other Renfroe adjusters worked for and alongside State Farm adjusters and senior claims personnel in adjusting of these claims. However, the Rigsbys quickly discovered that State Farm and other insurance companies were engaging in a fraudulent course of conduct with respect to the adjustment of Katrina claims that lead to the denial of billions of dollars in insurance benefits to entitled policyholders. Specifically, the Rigsbys witnessed senior State Farm claims personnel, in conjunction and with the assistance of Renfroe and HAAG, arbitrarily mischaracterize all of the property damage on the Mississippi Gulf Coast as "flood" damage, which is purportedly not covered under most homeowners' policies, as opposed to wind damage, which is covered. Claims were denied on this basis despite the overwhelming scientific evidence that strong and devastating hurricane winds damaged and/or destroyed properties along the Mississippi Gulf Coast for hours before any hurricane surge water impacted the area.

The Rigsbys witnessed State Farm claims personnel coerce independent structural engineers to conclude that all of the damage to insured property was caused by water. State Farm expected all of its adjusters and structural engineers to handle claims consistent with a generic HAAG Engineering Report, which broadly concluded that every property on the Gulf Coast was damaged by water, not wind. There is irrefutable proof that engineering reports that concluded insured property damage was caused by wind were sent back to the engineer and were not paid until the reports were changed to conclude that the damage was caused by water. In fact, in one particular instance the Rigsbys witnessed a top State Farm claims manager pressure and coerce a structural engineer to change the conclusions in his first engineering report, which found that the structure was damaged by wind, to conclude that the damage was caused by water. If a structural engineer failed to change his report from wind to water, that engineer was replaced and a new engineer was brought in. Once engineers learned what State Farm desired, all engineering reports began to conclude that wind could not have caused damage and that only water could have, thus negating insurance coverage purchased by residents across the Mississippi Gulf Coast.

State Farm and the other insurers' motivation for intentionally ignoring all evidence of wind damage and classifying all property damage as flood was two fold. First, because insurance companies consider flood damage excluded under traditional homeowner insurance policies, classifying all insured property damage as flood damage enabled them to deny every claim in its entirety. Second, in cases where the policyholder also had a flood insurance policy underwritten by the National Flood Insurance Program under FEMA, arbitrarily classifying all insured property damage as "flood" had the added benefit of enabling State Farm and the other insures to push the cost of reimbursing the policyholder to the federal government rather than under their own policies.

The Rigsbys were alarmed about the fraudulent and possibly illegal conduct they witnessed and came to me for legal advice in February 2006. Since that time they have been actively cooperating with federal and state law enforcement officials, including Mississippi Attorney General Jim Hood. The Rigsbys have also turned over to Attorney General Hood copies of documents from State Farm which evidence the fraud. In August 2006, the Rigsbys were featured on an ABC 20/20 news program concerning insurance conduct in the wake of Hurricane Katrina.

Unfortunately, both State Farm and Renfroe have attempted to punish the Rigsbys for having the courage to come forward and cooperate with law enforcement. In June 2006, State Farm and Renfroe discharged the Rigsbys in retaliation for cooperating with federal and state officials. In September 2006, Renfroe, at State Farm's behest , sued the Rigsbys in Federal Court in Alabama seeking millions of dollars in monetary damages from the Rigsbys and a return of the documents they provided to law enforcement. The obvious motive behind the suit was to improperly frustrate and undermine the Attorney General's criminal investigation by intimidating the Attorney General's top witnesses and learning what information they had provided to law enforcement. In December 2006, Renfroe obtained a preliminary injunction from the Alabama Court forcing the Rigsbys and their attorneys to return to Renfroe the State Farm documents they provided to Attorney General Hood. Renfroe is currently seeking civil and criminal sanctions against the Rigsbys and their lawyers for providing State Farm documents to Mississippi State Attorney General Hood.

I firmly believe that testimony from the Rigsbys, State Farm, Renfroe, and HAAG will be extremely valuable to House and Senate efforts to seek the truth regarding the insurance companies improper handling of claims from Hurricane Katrina. In addition, State Farm documents the Rigsbys originally provided to the Mississippi Attorney General that the Rigsbys and the Attorney General were required to return to Renfroe would be particularly helpful to the Committee's investigation. The Rigsbys and their counsel are anxious to help and are at this and any other Committee's disposal.

As a fellow Gulf Coast citizen and constituent, I humbly and sincerely thank both of you for all you have done and continue to do for the people of the Mississippi Gulf Coast. We are all fortunate to have such fine representation in Washington.

Sincerely

Richard F. Scruggs

RFS:bj

Prem: Sid Backstrom
To: Ainsley Perrier
Subject: FW: agenda
Date: Thursday, January 25, 2007 11:51:31 AM
Attachments: DML SKG Bio.wpd

Sidney A. Backstrom
Scruggs Law Firm, P.A.
120A Courthouse Square
P.O. Box 1136
Oxford, MS 38655
(p) 662 281 1212
(f) 662 281 1312

From: Dewitt Lovelace [mailto:dml@lovelacelaw.com]
Sent: Thursday, January 25, 2007 10:13 AM
To: sbackstrom@scruggsfirm.com
Cc: 'Sparky Lovelace'
Subject: RE: agenda

Dear Sid,

Attached is Sparky's bio. Please confirm receipt.
Thanks,
Sandy L. Rosenthal
Legal Assistant to
Dewitt M. Lovelace
Lovelace Law Firm, P.A.
36474 Emerald Coast Parkway
Suite 4202
Destin, FL 32541
Phone: 850-837-6020
Fax: 850-837-4093
e-mail: dml@lovelacelaw.com

From: Sid Backstrom [mailto:sbackstrom@scruggsfirm.com]
Sent: Wednesday, January 24, 2007 4:27 PM
To: 'Sparky Lovelace'; 'Dick Scruggs'; 'Zach Scruggs'; 'Beth Jones'
Cc: 'Marshall Smith'; 'Mary E. McAlister'; 'Derek Wyatt'; dbarrett@barrettlawoffice.com; 'Richard R. Barrett'; sparky@lovelacelaw.com
Subject: RE: agenda

Guys
We need your bios for the official state farm settlement website and for the skg website if you haven't already sent them. If you don't soon, you'll be sooorrryy

Sidney A. Backstrom
Scruggs Law Firm, P.A.
120A Courthouse Square
P.O. Box 1136
Oxford, MS 38655
(p) 662 281 1212
(f) 662 281 1312

From: Sparky Lovelace [mailto:dml@lovelacelaw.com]
Sent: Wednesday, January 24, 2007 2:38 PM
To: Sid Backstrom; Dick Scruggs; Zach Scruggs; Beth Jones
Cc: Marshall Smith; Mary E. McAlister; Derek Wyatt; dbarrett@barrettlawoffice.com; Richard R. Barrett; sparky@lovelacelaw.com
Subject: RE: agenda

Don asked that I reply to your email and ask you to request from Jeff that they wire 10 tomorrow, 10 Monday and 10 every other day until we tell him we are caught up on releases. This ok with you? Call his cell if you need to talk to him.
Sparky

Dewitt M. Lovelace
Lovelace Law Firm PA
36474 Emerald Coast Pkwy
Suite 4202
Destin, FL 32550
850-837-6020
850-837-4093 fax
dml@lovelacelaw.com

From: Sid Backstrom [mailto:sbackstrom@scruggsfirm.com]
Sent: Wednesday, January 24, 2007 2:19 PM
To: 'Dick Scruggs'; 'Zach Scruggs'; 'Beth Jones'
Cc: 'Marshall Smith'; 'Mary E. McAlister'; 'Derek Wyatt'; dbarrett@barrettlawoffice.com; 'Richard R. Barrett'; sparky@lovelacelaw.com
Subject: RE: agenda

Jeff Jackson says we can get the first increment tomorrow and it will be $10M. After that we can consider other options.

Sidney A. Backstrom
Scruggs Law Firm, P.A.
120A Courthouse Square
P.O. Box 1136
Oxford, MS 38655
(o) 662 281 1212
(f) 662 281 1312

From: Sid Backstrom [mailto:sidbackstrom@scruggsfirm.com]
Sent: Wednesday, January 24, 2007 10:15 AM
To: Dick Scruggs; Zach Scruggs; Beth Jones
Cc: Sid Backstrom
Subject: agenda

1. handling of press calls
    a. All are welcome to but be sure you know the deal. We cannot say that we have collected full policy limits for our clients because 1) we haven't and 2) it presents a fairness issue.

2. handling of client calls

a. we need to tell them that they will get their final offers very soon
b. that we are working on administrative and expense issues now and that when that is done we can start disbursing payments
c. this process should last a few days

3. getting clients paid
   a. we should pick dates that we can be on the Coast to start disbursing funds
      i. we will handle Jackson county cases in the Moss Point ofc – Sid, Dick and Zach will handle
      ii. we will handle Hancock and Harrison County in the Gulfport ofc – need lawyer volunteers
      iii. Burterworth may want to do his in his ofc – need to check with him
   b. the date that we do this should be far enough in advance that we can have checks to present to the clients
   c. Nutt ofc will receive the funds and cut checks

4. expenses
   a. we will decide what expenses are common fund expenses and thus are those are to be shared by the clients and venture expenses that are not to be shared by the clients. Expenses that need to be considered are:
      i. Rigsby Sisters – we think this is a venture expense; Dick to suggest a consulting fee payment to them
      ii. Rigsby sisters legal bills - we think this is a venture expense;
      iii. Harry Rayburn and Humphries McGee we think this is a venture expense;
      iv. Rendon Group (PR) - we think this is a venture expense; Query how much longer do we need them? Thru the claims period on the SF settlement?
      v. Consultant fees - we think this is a venture expense; Dick to articulate
      vi. Chip Robertson and Qui Tam case – Dick to articulate
      vii. Aircraft travel – we think private travel by our firm and Don's and anyone else – is a common fund expense for the cost of a first class ticket; for the difference between the first class rate and the cost of fuel – we think that is a venture expense.
   b. we think that the total of client specific SF expenses and the total of our SF common fund expenses should be added together and then we determine the total expenses to allocate to the SF clients by determining the ratio of SF cases to the total number of SKG cases. E.g., if the 40% of our cases are SF cases, then 40% of the total allocatable expenses are to be allocated to SF clients.
   c. We then allocate these expenses to SF clients not by head but based on the size of their offer compared to the total offer. Otherwise some would end up with a negative balance.
   d.

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Ðhas€been€co„counsel€in€several€national€class€actions€involving€the€insurance Ð ’å Ðindustry.€€Mr.€Lovelace
€graduated€from€the€University€of€Mississippi€with€a€degree€in Ð €Ð Ðaccountancy€and€received€his
€Ô_ÔJurisÔ_Ô€Doctorate€from€the€Ole€Miss€Law€School.€€He€is€a Ð n ¾ Ðmember€of€the€American
€Institute€of€Certified€Public€Accountants€and€the€Mississippi€Society Ð \
~ Ðof€CPAðð€as€well€as€being€a€member€of€both€the€Florida€and€the€Mississippi€Bar.

file:///C|/Users/sperrien/Documents/exapdf/DMLS%20KO%20Bio.wpd[7/2/2010 11:37:55 PM]

From:	Ainsley Pierian
To:	Rosenbaum, Jill
Subject:	RE: scrugge/katrina
Date:	Monday, February 12, 2007 3:00:00 PM

HI thanks -- there is a web site www.scruggskatrinagroup.com that has most all the media coverage and the court docs.

there were 3 components to what I was working on when we last spoke:

1. Settlement for 640 people that were clients of Scruggs that had filed lawsuits against State Farm. They were settled and are currently being paid.
2. The Mississippi AG Hood had a criminal inquiry into State Farms' practices when resolving Katrina claims. That has been closed
3. A preliminary settlement agreement was presented by Scrugge and State Farm to Federal District Judge Senter in Mississippi about 3 weeks ago.(-this is what I wanted you to look at but it got so crazy because the AG held everything up, it was on life support for weeks) -- This agreement would have allowed thousands of State Farm claims (filed by approx 30,000 insured families etc) to be reevaluated (because SF had used pretty shady protocols at the time) and reopened and new settlement offers made. If the insured didn't like the offer by SF the second time around, the claim would be sent to binding arbitration that would have been court sanctioned. This settlement agreement was to be the template for the other insurance companies to use in Mississippi to resolve the thousands of cases out there bogging down the court system for years to come.

Well we were all very surprised when the judge did not preliminarily approve the agreement and sent it back with questions. We think he doesn't understand the basics of how settlement class action cases unfold. He is 75 and has only heard one class action before (they are rare in Mississippi). Everybody is very frustrated and there is lots of politicking going on between the media, the attorneys and the state, as you can imagine. The judge has called for an open hearing (on Feb 28) in his chambers at the end of next week to hear from all parties and just about anyone else about what to do. Coincidentally the same day, Barney Frank is having hearings (Fellow committee member Cong. Gene Taylor of the gulf coast of Miss -- he and Trent Lott -- were both SF clients that were rejected and settled in the 640 --) about the insurance industry and their handling of Katrina claims. There is a move to revoke the industry's anti-trust exemption etc. These hearings are mostly aimed at State Farm, it appears.

The day before all this (Feb 27) in Birmingham Alabama -- a contempt hearing is taking place against the whistleblowers (the Rigsby sisters) that started all of this against State Farm. The whistleblowers employer (AE Renfroe) contracted with SF to assess Katrina claims. AE Renfroe sued the whistleblowers for stealing documents etc. As part of the case, the Alabama court (a judge Ackers) has charged the whistleblowers w/contempt for not relinquishing documents to the court -- I think the MS AG has them. Anyway -- the sisters will be asked to testify on Capitol Hill as part of the Barney Frank hearing and will likely become a face for all of this. Brian Ross 20/20 did something on them in Aug. I was wondering if you would be interested in interviewing the whistleblowers? I am working on getting their story out, before the Alabama court date and see the Capitol Hill hearings as the peg. They have not yet been asked to testify, but they will be asked.

Is this more confusing...any interest? Remember my guy Dickie Scruggs (who you can have anytime) has a John Grisham book based on him and he was the Jeffrey Wigand attorney (the Insider) on tobacco. He regards these sisters in the same vein. He wants to help them in the Alabama thing because as he says, "I don't leave bodies on the beach." He is a hoot.

Hope you are well. I am fine, enjoying this work very much.

Best,
Ainsley

om: Rosenbaum, Jill [mailto:RosenbaumJ@cbsnews.com]
Sent: Monday, February 12, 2007 1:58 PM
To: Ainsley Perrien
Subject: RE: scruggs/katrina

Can you give me an idea of what the hearings are about? I thought the settlement was done..so I'm a wee bit confused!

-----Original Message-----
From: Ainsley Perrien [mailto:aperrien@rendon.com]
Sent: Sunday, February 11, 2007 1:00 PM
To: Rosenbaum, Jill
Subject: FW: scruggs/katrina

HI -- Sorry it's taken so long to write -- something finally you may be interested in?

I can tell you all about what is going on behind the scenes on the SF thing if you are interested. Congress is going to have hearings at the end of the month on the same day (Feb 28) the Miss judge is calling all parties to an "open mike forum" in his biloxi courtroom to discuss. And the day before that (Feb 27) the whistleblowers are being called into Alabama court. I can lay this out for you and see if you'd like any interviews. Maybe with the whistleblowers or anybody else?

This is interesting and I need the help.

(the website www.scruggskatrinagroup.com has links to the coverage in the last 6 weeks)

If not, no problem.

Best,
ainsley

From:	Zach Scruggs
To:	Ainsley Perrin
Subject:	FW: [keyword] - Martindale-Hubbell - Potential Client Inquiry - Found word(s) farm in the HTML body
Date:	Friday, February 16, 2007 3:13:51 PM

From: melba@melbanewsome.com [mailto:melba@melbanewsome.com]
Sent: Friday, February 16, 2007 2:06 PM
To: Scruggs Firm
Subject: [keyword] Martindale-Hubbell Potential Client Inquiry Found word(s) farm in the HTML body.

This inquiry originated from a search on www.lawyers.com

Name:Melba Newsome
City: Charlotte
State: NC

Comments:
Media Request from Glamour Magazine. I am a writer for Glamour Magazine and we would like to do a feature about the State Farm lawsuit and the Rigsby sisters. Can you please contact me as soon as possible at (704) 632-0477. Melba Newsome

Sent by: melba@melbanewsome.com

From:	Ainsley Perrien
To:	[redacted]; [redacted]
Subject:	FW: Media Coverage - Rigsby Girls
Date:	Monday, February 19, 2007 7:23:00 PM
Attachments:	DSC_0145_edited-1.jpg

Hey guys,

My office is begging for the changes on the wild page...will you please let me know what was wrong in what we sent? (see email below)

Also look at this:

Ainsley -- Great talking to you! As we discussed, Glamour Magazine wants to include the Rigsby sisters in their June "heroes" issue because of their key role in the Katrine/State Farm story. Please arrange for me to speak with them as soon as possible and let me know when they are available for photos.
Best regards,
Melba Newsome

melba@melbanewsome.com

And:

MSNBC is interested in having you on one of their shows....we've got some traction. We'll see when we can get this done given the legal restrictions.

But I would like to have you both speak briefly to Melba as her story won't come out until June. What do you think?

Wild please,
Best -- ainsley

-----Original Message-----
From: Robert B. Vanasse [mailto:bvanasse@rendon.com]
Sent: Monday, February 19, 2007 6:55 PM
To: Ainsley Perrien
Cc: Rob Page III
Subject: Re: Media Coverage Rigsby Girls

Where do we stand on the Rigsby "girls" page?

Page III [mailto:page@rendon.com]
> Sent: Monday, February 12, 2007 11:26 PM
> To: Ainsley Perrien
> Subject: Media Coverage - Rigsby Girls
>
> Ainsley,
>
> Please see attached for media coverage of the Rigsby Girls since
> August of 2006.
>
> Cheers,
> Rob
> <070212-RigsbyMediaCoverage.doc>

From: Ainsley Perrien
To: Zach Scruggs
Subject: CNBC
Date: Tuesday, February 20, 2007 4:45:09 PM

I did.. I've talked to her twice. It's "on hold" for right now. But I know about what they want to do. It is 1/2 of a one hour show on natural disasters and fraud perpetrated by companies in that context. It is in a series they are developing called (tenatively titled) Business Crimes. These people (curtis productions) did Cold Case Files.

They want the girls and Dick to be the voice *of* the story of the lawsuit. We are slowing this a bit until we see what happens over the next week. Could be good for us if we go on the offensive with SF.

Meanwhile Glamour Magazine is going to feature the girls in the June heros issue.

Which brings me to the point of all of this...Can we talk about the "gag order"? Dick said he thought that the girls can talk as long as they don't show documents and the girls thought as long as they don't name people or specific cases. What do you think? Bethy emailed me a copy of what the judge wrote (I'll read now).

If you have time also I'd like to speak specifically about the details on what next week could be like in Alabama. I want to talk to the media to get them interested, but I need someone to explain this more to me. Do you have time?

Also I need to hear about what could happen w/Tuepker in the next weeks and the 5th circuit. A time table on that. Both things need to be clearer to me before I execute a couple of plans.

Please let me know if you are able to talk to me. I know you are very busy.

Best,
ainsley

From: Zach Scruggs [mailto:zachscruggs@scruggsfirm.com]
Sent: Tuesday, February 20, 2007 4:11 PM
To: 'Ainsley Perrien'
Subject: FW:

Please find more about.

From: krigsby111@aol.com [mailto:krigsby111@aol.com]
Sent: Tuesday, February 20, 2007 2:15 PM
To: Zach Scruggs
Cc: Charlene Bosarge; rigsby8888@aol.com
Subject:

Sara Halasz called from Chicago requesting an interview. It would be for CNBC and would not air until this summer. She would like to start the process in March.

I will notify Ainsley, but would like for you and Dick to make the final decision.

If you would like to get more information from Sara directly, her number is 312-242-6154.

Thank you,
Kerri

Check out the new AOL. Most comprehensive set of free safe'y and security tools, free access to millions of high-quality videos from across the web, free AOL Mail and more.

From: Robert Paar
To: Ainsley Perrigo
Subject: Rigsby Girls, Wiki
Date: Thursday, February 15, 2007 2:42:29 PM

Ainsley,

This is a potential Wiki entry. Are you going to be in soon?

Cheers,
Rob

Kerri and Cori Rigsby

Kerri and Cori Rigsby are sisters who worked for the E.A. Renfroe Company as catastrophe claims adjusters. Based in Birmingham, AL; they were contracted out through State Farm Insurance to evaluate claims along the severely battered Mississippi Gulf Coast after Hurricane Katrina. As they visited numerous properties and reviewed many reports and documents they felt something was awry. The sisters believed State Farm ignored or minimized the wind damage to avoid payment — the company denies this. Over the course of several months the sisters amassed several thousand pages of documents and presented them to Richard Scruggs before eventually taking their story public on ABCs 20/20 show.

The Documents

The sisters say they ultimately printed out and copied roughly 15,000 pages of claims records. In addition to providing the material to Scruggs, they say they gave copies to Mississippi Attorney General Jim Hood and U.S. Attorney Dunn Lampton's offices on June 5, 2006. Hood was, at the time, involved in an investigation of State Farm's actions in the wake of Katrina. In March 2006, a state judge ordered State Farm to turn over copies of its Katrina engineering reports to Hood.

20/20 Show

The 20/20 broadcast of the the Rigsby girls story brought new media attention to potential Katrina related fraud. In their interviews, Kerni and Cori are quoted as saying "A lot of people were cheated," and they believe the alteration of documents and engineering reports was 'widespread.' The 20/20 piece also interviewed two

unsatisfied policy holders. One stated it took three engineering reports to conclude the damage was only water, but he knew it was the third report because State Farm inadvertently sent him the two previous reports that concluded the damage was from wind and water — a situation where State Farm would have to make a payment. The Rigby girls allege this is not an isolated incident, but a widespread campaign by State Farm to pressure engineers to issue certain types of reports to reduce State Farm's liability. State Farm representatives in Bloomington, Ill., the home office, say what the women describe would be contrary to the company's claims practices.

E.A. Renfroe Lawsuit

E.A. Renfroe, the company that contracted with State Farm Insurance Co., sued the Rigsby girls in September 2006. It alleges in its lawsuit that Cori and Kerni Rigsby broke the law when they turned over reams of internal State Farm records to attorney Richard 'Dickie' Scruggs. Renfroe's lawsuit, filed in a federal court in Alabama, accuses the sisters of violating the Alabama Trade Secrets Act and breaching confidentiality agreements with the company. Renfroe is asking a judge to order the Rigsbys to return the documents they gave Scruggs and to bar them from continuing to disclose information.

Court Battle

November 2006

Attorney General Jim Hood's office argued the suit should be suspended until the Mississippi Attorney General's office completed its criminal investigation into post-Katrina insurance claims practices. They argued that the government's case could be compromised if the civil case continued.

Insurance Commissioner George Dale: Dale launches his own investigation of the insurance industry and would begin with State Farm because they were the biggest insurance company in Mississippi. Dale claims he is spurred on by policy-holder complaints aired on local television.

December 2006

Federal Judge William Ackers Jr. requires the Rigsby sisters to turn over the documents to E.A. Renfroe.

January 2007

The Rigsby girls testify for a Mississippi grand jury about what they saw while working as claims adjusters after Hurrican Katrina.

In Alabama, Judge Ackers orders the girls to show why they should not be held in contempt of his order in December 2006 as they have yet to turn over the documents.

Results

In January, State Farm Insurance settled with Richard Scruggs and the Scruggs Katrina Group over 640 different claims. One of the beneficiaries of the settlement is a Dr. Wesley McFarland. This man's claim was one of the final ones the Rigsby sisters evaluated and is the one that ultimately pushed them to gather documents and contact Mr. Scruggs. Dr. McFarland had initially had extensive evidence to show his house was damaged by winds, but State Farm declared the damages to be flood only. This information, coupled with the Rigsby girls' actions, helped lead to the current criminal investigations.

In February, Mississippi state senators Dawkins and Williamson submitted a bill to commend the Rigsby girls for their actions.

From: Ainsley Perrier
To: [redacted]; krissty111@aol.com
Subject: when you can
Date: Saturday, February 17, 2007 10:23:00 AM

Hi -- will you call me and let me know what you thought of the wikipedia thing and also about the radio show (the producer loved you both.) Have you spoken w/Zach? -- best, ainsley

From:	krigsby111@aol.com
To:	Ainsley Perrien
Subject:	Re: when you can
Date:	Saturday, February 17, 2007 11:19:38 AM

I liked the "wikipedia thing", but there are some corrections that need to be made.

I have not talked to Zach yet, but I know there is still concern about what we can actually discuss without violating Judge Acker's order.

I'll call you today.

Kerri

--- Original Message ---
From: aperrien@rendon.com
To: Rigsby8888@aol.com; krigsby111@aol.com
Sent: Sat, 17 Feb 2007 9:23 AM
Subject: when you can

Hi -- will you call me and let me know what you thought of the wikipedia thing and also about the radio show (the producer loved you both.) Have you spoken w/Zach? -- best, ainsley

Check out the new AOL. Most comprehensive set of free safety and security tools, free access to millions of high-quality videos from across the web, free AOL Mail and more.

From: Ainsley Perrien
To: dickscruggs@scruggsfirm.com; bethjones@scruggsfirm.com
Subject: Rigsby Sisters - please print for Dick
Date: Tuesday, February 20, 2007 1:57:41 PM
Attachments: 070220-Wiki Entry-RigsbyGirls-Draft.doc

Thanks so much. Please get this edited and fixed as quickly as possible. We'll get it posted to Wikipedia within hours. This will generate much more exposure, about a quarter of the visitors to the SKG site currently come via the wikipedia entry for SKG. Once we have this information, we're going to post it on the SKG website and use these facts as we go forward. Until we have something back from you, we're frozen

Please see attached

I'll talk to you later,
Ainsley

From: Ainsley Perrien
To: krigsby111@aol.com; Robert Page
Subject: RE: rigsby webpage
Date: Wednesday, February 21, 2007 7:31:00 AM

Kerri -- Thank you very much.

Rob please fix and send to Bob to put on the site and make any adjustments to wiki if necessary. -- ainsley

---

From: krigsby111@aol.com [mailto:krigsby111@aol.com]
Sent: Wednesday, February 21, 2007 1:12 AM
To: aperrien@rendon.com
Subject: Re: rigsby webpage

It looks great...

There are several places in the document that Renfroe is misspelled.

The first paragraph describe Cori and I as adjusters, we were actually team managers.

Also, you may want to review the paragraph that discusses that atypical notes on the files. That last sentence is awkward and possibly should be reworded.

Thanks for your help,
Kerri

--- Original Message --
From: aperrien@rendon.com
To: zachscruggs@scruggsfirm.com; DickScruggs@aol.com; dickscruggs@scruggsfirm.com; bethjones@scruggsfirm.com; krigsby111@aol.com; Rigsby8888@aol.com
Sent: Tue, 20 Feb 2007 6:53 PM
Subject: rigsby webpage

Please let me know if we can put this page (one area needs to be answered -- see green) up on the site...

thanks,
ainsley

Check out the new AOL. Most comprehensive set of free safety and security tools, free access to millions of high-quality videos from across the web, free AOL Mail and more.

From: [redacted]
To: [redacted]
Subject: Re: rigsby webpage
Date: Wednesday, February 21, 2007 11:55:45 AM

Looks good

One error... we were managers, not adj. We assisted adj in writing estimates, but did not have our own files until mediation began in Feb.

Cori

Check out free AOL. Most comprehensive set of free safety and security tools, millions of free high-quality videos from across the web, free AOL Mail and much more.

Check out free AOL at http://free.aol.com/thenewaol/index.adp. Most comprehensive set of free safety and security tools, millions of free high-quality videos from across the web, free AOL Mail and much more.

From: Robert Page
To: Rigsby8888@aol.com
Cc: Ainsley Perrien
Subject: Re: rigsby webpage
Date: Wednesday, February 21, 2007 12:25:27 PM
Attachments: 070221-WikiEcory-Draft03.doc

Good Morning Cori,

Thank you for taking the time to review what I've put together and alerting me to some mistakes. I went back and made the changes as you instructed.

I'm not sure what draft you are working from though. Yesterday, I had the opportunity to talk with your sister and she helped clarify some things for me. Additionally, there have been a number of revisions since the initial draft. I have attached the most recent draft for you to review once more.

Cheers,
Rob

Ainsley Perrien wrote:
> thanks...
> Rob -- pls fix and send back
>
> ---
> *From:* Rigsby8888@aol.com [mailto:Rigsby8888@aol.com]
> *Sent:* Wednesday, February 21, 2007 11:55 AM
> *To:* aperrien@rendon.com
> *Subject:* Re: rigsby webpage
>
> Looks good
>
> One error... we were managers, not adj. We assisted adj in writing
> estimates, but did not have our own files until mediation began in Feb.
>
> Cori
>
>
>
> ---
> **Check out free AOL*
> <http://pr.atwola.com/promodk/1615326657x4311227241x4298082137/aol?redir=http%3A%2F%2Fwww%2Eaol%2Ecom%2Fnewaol>*
> Most comprehensive set of free safety and security tools, millions of
> free high-quality videos from across the web, free AOL Mail and much more.
>
>
>
> **********
> Check out free AOL at http://free.aol.com/thenewaol/index.adp. Most
> comprehensive set of free safety and security tools, millions of free
> high-quality videos from across the web, free AOL Mail and much more.

Potential Wikipedia Article.
This article needs to be encyclopedic in nature; therefore, it has to be third person.

Kerri and Cori Rigsby

Kerri Rigsby and Cori Rigsby (Moran) are sisters who worked eight years for the E.A. Renfroe Company overseeing catastrophe claims adjusters as managers. The company is based in Birmingham, AL; but the sisters are from Mississippi and were dispatched to catastrophe sites. Through Renfroe, they were surrogates of State Farm tasked to help evaluate claims along the severely battered Mississippi Gulf Coast after Hurricane Katrina. As they visited numerous properties and reviewed many documents they became aware of instructions issued to engineering firms to alter reports. The sisters believed State Farm ignored or minimized wind damage to avoid payments – the company denies this. Over the course of several months, the sisters amassed thousands of pages of documents related to State Farm's activities. Eventually, their story went public when ABC's 20/20 show aired it in August 2006.

The Documents

The sisters say they ultimately obtained about 15,000 pages of claims records. These documents were handed over on June 5, 2006 to the offices of Mississippi Attorney General Jim Hood and U.S. Attorney Dunn Lampton who were conduting criminal investigations. A couple weeks after the documents were turned over to Hood and Lampton another copy was presented to Richard Scruggs. Previously, Scruggs had worked with another whistleblower, Jeffrey Wigand, whose information led to a settlement with Big Tobacco

20/20 Show

The 20/20 broadcast of the the Rigsby sisters story brought new media attention to potential Katrina related fraud. In their interviews, Kerri and Cori were quoted as saying "A lot of people were cheated," and they believed the alteration of documents and engineering reports was 'widespread.' The 20/20 piece also interviewed an unsatisfied policyholder. He stated it took three engineering reports to conclude the damage was only water, but he knew it was the third report because State Farm inadvertently sent him the two previous reports that concluded the damage was from wind and water – a protocol where State Farm would have had to make a payment.

The Rigsby sisters alleged this was not an isolated incident, but a widespread campaign by State Farm to pressure engineers to issue certain types of reports to reduce State Farm's liability. State Farm representatives in Bloomington, Ill., the home office, say what the women describe would be contrary to the company's claims practices.

E.A. Renfroe

E.A. Renfroe, the company that contracted with State Farm Insurance Co., sued the Rigsby sisters on September 1, 2006. It alleged in its lawsuit, *E.A. Renfroe & Co. Inc. v. Moran; No. 06-1752 (N.D. Ala.)*, that Cori and Kerri Rigsby broke the law when they turned over reams of internal State Farm records to attorney Richard Scruggs. Renfroe's lawsuit, filed in an Alabama federal court, accused the sisters of violating the Alabama Trade Secrets Act and breaching confidentiality agreements with the

company. Renfroe asked a judge to order the Rigsby sisters to return the documents they presented Scruggs and to bar them from continuing to disclose information. Additionally, the sisters were requested to return the State Farm adjuster jackets they had worn for years.

The E.A. Renfroe Company has worked with State Farm in the past. The firm was hired to do adjustments after a 1999 tornado struck residents in Oklahoma. A policyholder sued State Farm and alleged State Farm's adjusters failed to treat each claim individually. A jury found in favor of the plaintiff and awarded them $9.9 million in punitive damages. *Watkins v. State Farm Fire & Casualty Co.*, No. CJ-2000-303 (Grady Co., Okla., Dist. Ct.).

In Court

November 2006
Attorney General Jim Hood's office argued the suit, *E.A. Renfroe & Co. Inc. v. Moran, No. 06-CV-1752,* should be suspended until the Mississippi Attorney General's office completed its criminal investigation into post-Katrina insurance claims practices. They claimed the government's case could be compromised if the civil case continued.

Insurance Commissioner George Dale: Dale launched his own investigation of the insurance industry and began with State Farm because they were the biggest insurance company in Mississippi. Dale claimed he was spurred on by policy-holder complaints aired on local television.

December 2006
Federal Judge William Ackers Jr. requires the Rigsby sisters to return the documents to E.A. Renfroe.

January 2007
The Rigsby sisters testify for the Mississippi Attorney General before a Mississippi grand jury about what they saw while working as claims adjusters after Hurricane Katrina.

In Alabama, Judge Ackers orders the sisters to show why they should not be held in contempt of his order in December 2006 as they had yet to turn over the documents. Ackers also requires Scruggs and the Scruggs law firm to show why they should not be held in civil contempt.

In a court hearing on January 31st, E.A. Renfroe's attorney requested the Rigsby sisters and their representation face civil and criminal charges for their actions.

Results

In January, State Farm Insurance settled with Richard Scruggs and the Scruggs Katrina Group over 640 different claims. One of the beneficiaries of the settlement was a Dr. Wesley McFarland. This man's claim was the final one reviewed by the Rigsby sisters and the one that ultimately pushed them to gather documents and contact Mr. Scruggs. Dr. McFarland initially had extensive evidence to show his home was damaged by wind, but State Farm declared the damages to be flood only. His information, coupled with the Rigsby sisters' actions, helped lead to the current criminal investigations against State Farm.

[redacted]

In February, Mississippi state senators Dawkins and Williamson submitted a bill, Mississippi Senate Concurrent Resolution 574, to the state legislature commending the Rigsby sisters for their actions.

From: krigsby111@aol.com
To: Ainsley Perrien
Subject: Re: Wikipedia entry
Date: Wednesday, February 21, 2007 10:46:10 PM

It looks great!

- Original Message -
From: aperrien@rendon.com
To: dickscruggs@scruggsfirm.com; zachscruggs@scruggsfirm.com; DickScruggs@aol.com; sidbackstrom@scruggsfirm.com; HNR@ScruggsFirm.Com; Rigsby8888@aol.com; krigsbyl 11@aol.com; charlenebosarge@scruggsfirm.com
Sent: Wed, 21 Feb 2007 6:01 PM
Subject: Wikipedia entry

Hi -- this is a wikipedia entry on the Rigsby sisters. Please click on the link and read. Let me know if you see anything that is wrong or a problem.

ainsley
http://en.wikipedia.org/wiki/Rigsby_Sisters

Check out the new AOL. Most comprehensive set of free safety and security tools, free access to millions of high-quality videos from across the web, free AOL Mail and more.

From:	Andrew Pierson
To:	Zach Scruggs
Subject:	RE: phone meeting with Joe Treaster on Thursday, pls
Date:	Thursday, March 15, 2007 11:41:00 AM

absolutely. look at what our guy wrote for a rebuttal on the editorial and let me know if any of it resonates for a blog...thanks. -- my comments in red.

A cracked crystal ball

On several occasions, the WSJ is confusing crystal ball gazing for journalism in "Mississippi Justice" (March 14, 2007).

For example, the WSJ alleges that AG Hood "has teamed up with the trial bar to squeeze law-abiding companies into dubious settlements." Such a statement implies that State Farm has acted legally in its denying payment to thousands of policyholders who have been left homeless. We believe that whether State Farm is "law-abiding" in this case be left to the court, not to speculation. The WSJ should put away their crystal ball.

In addition, the WSJ believes it can see into the future and conclude that Dick Scruggs will be making a contribution to AG Hood's re-election campaign. Furthermore, the suggestion that there is a quid pro quo between the AG's action against State Farm and an assumed contribution to his re-election campaign is bordering on libel. To make this allegation is certainly not fitting of a newspaper with the excellent reputation that WSJ enjoys. (i wonder if we could mention SF's 5 million payment, but probably not)

Some other points in the article require response:

The WSJ questions the motivation of the Rigsby sisters in blowing the whistle on State Farm. This is another example of speculation that does not belong in a reputable news source. We are limited in what we are allowed to say on this matter, but it must be noted that taking the action that the Rigsbys have done – indeed the action of any whistleblower – is not easy, and there is no need to allege that it was all in their self-interest. (mention we matched their salary as they can not get jobs in their industry) They have sacrificed long careers in the business to blow the whistle. And let's not forget that they didn't invent these papers. The papers are real and legitimate evidence that demonstrate State Farm's concerted efforts to deny claims.

What it comes down to is not an attack on the insurance industry, but the actions that State Farm has taken in responding to Katrina victim claims. This is not wholesale fraud by State Farm, but evidence shows that they are talking out of both sides of their mouth. The WSJ should be concerned about State Farm's mismanagement of the claims process and their failure to put into practice their lofty corporate marketing.

From: [redacted]
To: [redacted]
Subject: blog
Date: Thursday, March 15, 2007 12:22:00 PM

A cracked crystal ball

On several occasions, the WSJ is confusing crystal ball gazing for journalism in "Mississippi Justice" (March 14, 2007).

For example, the WSJ alleges that AG Hood "has teamed up with the trial bar to squeeze law-abiding companies into dubious settlements." Such a statement implies that State Farm has acted legally in its denying payment to thousands of policyholders who have been left homeless. We believe that whether State Farm is "law-abiding" in this case be left to the court, not to speculation. The WSJ should put away their crystal ball.

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From: Ainsley Perrien
To: Joel Feuerherm
Subject: FW: Draft Response to Another Wall Street Journal Attack
Date: Thursday, March 15, 2007 10:44:00 AM
Attachments: image001.gif

please clean this up asap..but call me first. 202 744 6598 so I can explain

-----Original Message-----
From: Beth Jones [mailto:bethjones@scruggsfirm.com]
Sent: Thursday, March 15, 2007 10:26 AM
To: 'Ainsley Perrien'
Subject: FW: Draft Response to Another Wall Street Journal Attack

Beth Jones
Executive Assistant to Richard F. Scruggs Scruggs Law Firm 120 A Courthouse Square P.O. Box 1136
Oxford, Mississippi 38655
Office: 662-281-1212
Fax: 662-281-1312
E-mail: bethjones@scruggsfirm.com

-----Original Message-----
From: jim hood [mailto:jimhoodag@hotmail.com]
Sent: Thursday, March 15, 2007 5:48 AM
To: dbarrett@barrettlawoffice.com; jc@mikemoorelawfirm.com; decupit@aol.com; tonygelderman@yahoo.com; hhickman@globalstrategygroup.com; jmartin@squiermedia.com; bknapp@squiermedia.com; jlangston@langstonlaw.com; bliston@liston-lancaster.com; governorm@aol.com; mm@mikemoorelawfirm.com; cgp@pgrwlaw.com; cschi@ago.state.ms.us; Dickscruggs@scruggsfirm.com; zachscruggs@scruggsfirm.com; tbeiman@bernlieb.com; rwhitney@globalstrategygroup.com; mwood@ago.state.ms.us
Subject: Draft Response to Another Wall Street Journal Attack

Friends,

Please e-mail me your thoughts on this draft response to the attached article in today's Wall Street Journal. Don't worry, this is just my initial venting draft.

Gentlemen:

In your March 15, 2007, "Review and Outlook" article, you state that the Mississippi versus State Farm litigation is worthy of novel by Mississippi's

own John Grisham. Your extremely biased version is just that - fiction.

Your statement that "We're also told that Mr. Hood exerted pressure on State

Farm to settle not just with the state, but also with Mr. Scruggs . . ", is actionable and compensable for libel. It is obvious why you use the term

"we are told". It is because in your tirade to develop this biased diatribe

you made up this lie. I demand that you retract this allegation and reveal who "told" you this!

The entire article is based upon a false premise, which your biased editors failed to recognize. The

documents you claim State Farm so desperately needed to defend itself were in its possession all along. The confidential informants merely made copies.

The litigation filed in Alabama federal court to recover the documents was nothing but an attempt by State Farm to intimidated the State of Mississippi's confidential informants and obtain information presented to a Mississippi Grand Jury. The only difference between State Farm's attempt to

intimidate the State's grand jury witnesses and that of a mob threat, is it used its money and lawyers to use a federal court.

The use of confidential informants to expose criminal conduct is a crucial to law enforcement. The evidence confidential informants bring to law enforcement agencies may involve crimes ranging from crimes on the street or

in the boardrooms.

Billion dollar companies do not settle when they have done nothing wrong.
The fact that a State Farm adjuster attached a post-it note on an engineering report that said, "Do not pay this bill. Do not talk about this.", should make even your biased editors wonder what they were hiding.
They were attempting to hide the fact that the first engineering report found that wind caused the damage, while the a second engineering report given eight days later attributed the cause to water. They hid the first engineering report and denied payment of the claim based upon the second report.

The next time that you attempt to defend one of your poor, innocent corporate barons and blame law enforcement, you should get the facts straight. Moreover, you should at least reveal your bias to your readers by

releasing how much insurance and related companies pay your journal annually.

Jim Hood
Attorney General

>From: "Harrison Hickman" <hhickman@globalstrategygroup.com>
>To: "jim hood"
><jimhoodag@hotmail.com>,<jmartin@squiermedia.com>,<bknapp@squiermedia.c
>om>,
"Ruth
>Whitney" <rwhitney@globalstrategygroup.com>
>Subject: More love for Hood in Wall St. Journal -- but Scruggs gets the
>picture this time
>Date: Wed, 14 Mar 2007 23:58:45 -0600
>
>REVIEW & OUTLOOK
>
>
>
>
>
>
>Mississippi Justice
>March 15, 2007; Page A16
>
>
>These columns have tried to monitor the increasingly marauding behavior
>of state attorneys general (see below), and few examples can match the
>assault of Mississippi's Jim Hood on State Farm Insurance.
>
>We've been digging into the gory details, which also reveal how one

>more AG has teamed up with the trial bar to squeeze law-abiding
>companies into dubious settlements. This tale is worthy of a Grisham
>novel, full of stolen documents, turncoat employees, attorneys who
>flout court orders, and an upcoming contempt hearing.
>
>Within weeks of Hurricane Katrina, Mr. Hood filed a civil suit against
>State Farm and other insurers for denying flood claims -- even though
>their policies excluded flood damage. State Farm was also sued by
>Mississippi tort baron Dickie Scruggs. When the insurers refused to
>roll over, Mr. Hood turned up the pressure with a criminal probe. And
>his leverage in that probe included certain internal State Farm documents.
>
> How Mr. Hood got his hands on those documents is a story all its own.
>It revolves around E.A. Renfroe, a company with offices in Alabama that
>was hired by State Farm to send insurance adjusters to evaluate Katrina
>claims. Two sisters, Cori Rigsby Moran and Karri Rigsby, had worked as
>adjusters for Renfroe since the late 1990s. Both had signed employment
>agreements and codes of conduct promising to protect the confidential
>information of companies for which Renfroe worked.
>
>Yet around February of 2006, the Rigsby sisters seemed to be thinking
>of something beyond contracts. According to court documents, they met
>with Mr. Scruggs (a friend of their mother's) and gave him State Farm
>documents they'd stolen from work. Mr. Scruggs at this point was
>working on his civil litigation against insurers, and the Rigsbys
>started clandestinely working with him. In June of 2006, the two copied
>15,000 more pages of claims information and, on Mr. Scruggs's advice,
>gave a copy first to Mr. Hood and then to Mr. Scruggs. They also went
>on national television to crow about their theft, and to accuse State
>Farm of misconduct.
>
>
>* * *
>
>
>We'll leave it to readers to decide what motivated the Rigsby sisters,
>who claim they found evidence of State Farm fraud and so should be
>hailed as heroic whistleblowers. But it's worth noting that neither
>woman went to Renfroe management with their concerns before they stole
>the papers. Instead, they both took jobs with the Scruggs Katrina Group
>-- a coalition of trial lawyers suing over the hurricane -- and are now
>each earning $150,000 a year as "consultants" for advising on insurance
>litigation.
>
>The real fireworks started when Renfroe sued the two sisters in federal
>court, alleging they'd broken employment agreements and a trade secrets
>law, and demanding return of the documents. Guess who then interceded?
>None other than Mr. Hood, who filed a brief admitting the documents
>were now at "the heart" of his criminal probe and couldn't be returned.
>Never mind that Renfroe had already agreed that Mr. Hood could keep his
>copies.
>
>Mr. Hood claimed to be worried that, if the documents were returned to
>Renfroe, State Farm would see them and know what "evidence" the
>prosecutor had against it. In other words, the AG admitted in a court
>document that his strategy was to deny evidence to State Farm to make
>it easier for him to scare the company into a settlement. His demand
>for a stay of the proceedings would also have helped Mr. Scruggs -- the
>man who'd got him the documents -- keep his own set of papers.
>

>To his credit, Alabama federal Judge William M. Acker Jr., showed
>himself wise to this racket. In a blunt opinion in early December, he
>said that it was "apparent" that the Rigsby sisters and Mr. Scruggs
>were "now engaged in a cooperative effort" to use the papers to sue
>State Farm. He then issued an injunction, demanding that everyone
>except law enforcement officials return their documents to Renfroe
>attorneys -- who themselves were under court order not to share them
>with Renfroe or State Farm.
>
>That should have been the end of it. Instead, within days of Judge
>Acker's injunction, Mr. Hood's office had sent a letter to Mr. Scruggs
>suggesting that, instead of giving his documents back to Renfroe, Mr.
>Scruggs give them to the AG -- where they'd be beyond the reach of the
>injunction. The letter also promised to give the papers back to Mr.
>Scruggs later in the game. Mr. Scruggs did so, and the injunction went
>unfulfilled, all the way up until after the January day that State Farm
>agreed to settle with both the lawyer and the prosecutor. Only then did
>Mr. Hood's office send Mr. Scruggs's documents to Renfroe attorneys, as
>the court had ordered.
>
>Judge Acker wasn't thrilled that an officer of the court (Mr. Scruggs)
>and a state law enforcement official (Mr. Hood) would so brazenly flout
>the law. He has since invited Mr. Scruggs and his law firm to explain
>why he should not be held in contempt of court, and on March 21 will
>hold a contempt hearing. Don't expect it to be pretty.
>
>Then again, Mr. Scruggs and Mr. Hood have already got what they wanted.
>Mr. Scruggs helped Mr. Hood get internal State Farm documents for his
>criminal probe. Mr. Scruggs has used those documents in his litigation,
>and by his own admission has given them to other trial lawyers. Working
>together, the trial lawyer and AG ensured that State Farm wouldn't see
>what had been stolen, and thus never know how well it could defend
>itself. That made it easier for both men to pressure the company into a
>$130-million-plus settlement, rather than risk going to court.
>
>Meanwhile, other disturbing aspects of this tale have leaked out.
>According to documents in the Alabama case, Mr. Scruggs also threatened
>to turn up the heat on State Farm unless the company agreed to pressure
>Renfroe into dropping its litigation against Mr. Scruggs's clients, the
>Rigsby sisters. How convenient. We're also told that Mr. Hood exerted
>pressure on State Farm to settle not just with the state, but also with
>Mr. Scruggs, who stands to make millions in contingency fees from the
>State Farm settlement. Look for some of that cash to make it back to Mr.
>Hood in the form of campaign contributions.
>
>
>* * *
>
>
>Whatever else this is, we wouldn't call it "justice." Attorneys general
>are immensely powerful and are supposed to enforce the law fairly and
>without playing favorites. Instead, many of them have essentially
>become business partners with the trial bar to shake down companies for
>cash and political gain. In an earlier day, this would have been known
>as absolute power corrupting absolutely.
>
>
>

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From: Ainsley Perrien
To: krigsby111@aol.com
Subject: RE: pictures
Date: Wednesday, March 21, 2007 9:26:00 PM

---

you are very kind...thank you for writing....

what a couple of days.

I spoke to Joe Rhee today and hopefully he will be back on the coast to see you guys with Brian soon.

best,
ainsley

From: krigsby111@aol.com [mailto:krigsby111@aol.com]
Sent: Wednesday, March 21, 2007 9:02 PM
To: aperrien@rendon.com
Subject: Re: pictures

I think the pictures and the article are both great.

-----Original Message-----
From: aperrien@rendon.com
To: Rigsby8888@aol.com; krigsby111@aol.com
Sent: Tue, 20 Mar 2007 4:13 PM
Subject: pictures

Hi guys, hope today went as well as yesterday. Please click on this link and let me know what you think about the pictures.

Our photos are here:

http://www.scruggskatrinagroup.com/Rigsby_Sisters.asp

On Mar 20, 2007, at 11:34 AM, Ainsley Perrien wrote:

> please send me our best pics (limited I know) of the sisters. sun herald requested them.

AOL now offers free email to everyone. Find out more about what's free from AOL at AOL.com.

From: Zach Scruggs
To: Ainsley Perrien
Subject: RE: National Whistleblower Week
Date: Monday, May 14, 2007 5:01:58 PM

Let me see what you got.

Eat gumbo last night and it was real good thanks

-----Original Message-----
From: aperrien@rendon.com [mailto:aperrien@rendon.com]
Sent: Sunday, May 13, 2007 2:10 PM
To: Zach Scruggs
Subject: Fw: National Whistleblower Week

Given that this is nat whistlerblowers week can we blog the efforts of the girls and link to this? And throw in a mention of cq and lott-sort of a dc activities blog? Joel can start it - it will help in the effort toget air cover for the girls and we can mention they are featured as heros in glamour mag that is out on newsstands.....hi by the way! Aap. (See note below)
------Original Message------
To: Irby, Susan (Lott)
Sent: May 13, 2007 6:26 PM
Subject: Re: National Whistleblower Week

Thanks

------Original Message------
From: Irby, Susan (Lott)
To: Ainsley Perrien
Sent: May 14, 2007 7:41 PM
Subject: National Whistleblower Week

Floor Statement of U.S. Senator Chuck Grassley of Iowa

National Whistleblower Week

Monday, May 14, 2007

Mr. President, I announce today the kick-off of Whistleblower Week in Washington. This week and the events surrounding it are designed to promote, celebrate and educate Congress and the public about the courage and patriotism of whistleblowers.

These individuals often risk their careers to expose fraud, waste, and abuse in an effort to protect not only the health and safety of the American people, but the federal treasury and taxpayer dollars.

This week's events promoting and celebrating whistleblowers are

important for all members of Congress and for the public as well. By highlighting what whistleblowers do, we provide insight into what it means to be a whistleblower and the important role they play in government and society.

For over two decades, I've learned from, appreciated and honored whistleblowers. Congress needs to make a special note of the role that whistleblowers play in helping us fulfill our Constitutional duty of conducting oversight of the Executive Branch. As a Senator, I've conducted extensive oversight into virtually all aspects of the federal bureaucracy.

Despite the differences in cases from agency to agency and department to department, one constant remains: the need for information and insight from whistleblowers.

This information is vital to effective Congressional oversight. Documents alone are insufficient when it comes to understanding a dysfunctional bureaucracy. Only whistleblowers can explain why something is wrong and provide the best evidence to prove it. Moreover, only whistleblowers can help us truly understand problems with the culture at government agencies.

Whistleblowers have been instrumental in uncovering $700 being spent on toilet seats at the Department of Defense. These American heroes were also critical in our learning about how the FDA missed the boat and approved Vioxx, how government contracts were inappropriately steered at the GSA, or how Enron was cooking the books and ripping off investors. Courageous employees blew the whistle and shed much needed sunshine on problems that would otherwise never see the light of day.

Like all whistleblowers, each whistleblower in these cases demonstrated tremendous courage. They stuck their necks out for the good of all of us. They spoke the truth. They didn't take the easy way out by going along to get along, or looking the other way, when they saw wrongdoing. The whistleblower who I call the grandfather of all whistleblowers -- Ernie Fitzgerald says that whistleblowers are guilty of "commiting truth." For doing so, they're about as welcome as a skunk at a Sunday afternoon picnic.

I've said it for many years without avail, but I'd like to see the President of the United States have a Rose Garden ceremony honoring whistleblowers. This would send a message from the very top of the bureaucracy about the importance and value of whistleblowers. They deserve it, and we all ought to be grateful for what they do and appreciate the very difficult circumstances they often have to endure to do so, sacrificing their family's finances, their employability, and the attempts by powerful interests to smear their good names and intentions.

Earlier today I had the opportunity to speak at a panel that gathered to discuss the plight of whistleblowers at the Federal Bureau of Investigation. These individuals discussed the hurdles they faced in exposing the truth. Further, they discussed the lengths at which some bureaucrats will go to prevent the truth from coming out.

Unfortunately, these former agents also discussed a culture that keeps problems internal and circles the wagons when things go wrong. Often times this culture shoots the whistleblower instead of addressing the problem.

Mr. President, retaliation against whistleblowers should not be tolerated. We have an obligation to ensure that those who retaliate are punished.

Congress has recognized the need to protect whistleblowers and I have used my experience working with whistleblowers to promote legislation that protects them from retaliation. Legislation such as the Whistleblower Protection Act, the Sarbanes-Oxley Act, and the False Claims Act recognize the benefits of whistleblowers and offer protection to those seeking to uncover the truth. For example, whistleblowers have used the False Claims Act to help the federal government recover nearly $20 billion since Congress passed my amendments to it in 1986.

These laws are a good step, however, our work in this field is unfinished and more can be done.

The next step in protecting whistleblowers was filed in January and is currently pending before this body. S.274 – the Federal Employee Protection of Disclosures Act – will provide much needed updates to federal whistleblower protections. I'm proud to have been an original cosponsor of S.274 and believe the Senate should move this important legislation. Unfortunately, this bill was introduced but not addressed in the 109th Congress. It is my hope that this chamber will act on S.274 and improve protections for whistleblowers.

Mr. President, I urge all my colleagues to join in support of S.274 and swiftly move this important legislation to help protect whistleblowers. I also urge all my colleagues to attend the events that are occurring all week to help celebrate whistleblowers and all they have done to benefit the work of Congress and more importantly, all they have done to make America a safer, stronger, and better nation. I yield the floor.

Sent via BlackBerry from Cingular Wireless

ald

From: Majors, Jay (CIV) [Jay.Majors@usdoj.gov]
Sent: Friday, April 13, 2007 2:28 PM
To: Anthony L. DeWitt
Subject: RE: Supplemental Disclosure

I meant to email you yesterday to acknowledge receipt of these. Thanks very much.

-- Jay

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From: Anthony L. DeWitt [mailto:aldewitt@sprintmail.com]
Sent: Wednesday, April 11, 2007 5:27 PM
To: Majors, Jay (CIV)
Subject: Supplemental Disclosure

Jay

These emails are evidence of State Farm's work with the engineers to falsify their reports. Read through these and feel free to pass them on to the criminal side.

Regards,

t

604

SUBPOENAS
RIGSBY FILINGS

Tue, May 22, 2007 11:40 AM

Subject: Blog: Katrina roundup
Date: Tuesday, May 22, 2007 8:26 AM
From: Alert Scruggs Katrina Group <alert@rendon.com>
Reply-To: alert@rendon.com
To: <jfeyerherm@rendon.com>
Conversation: Blog: Katrina roundup

Blog: Katrina roundup

Media: Insurance Coverage Blog
Byline: David Rossmiller
Date: 22 May 2007
http://www.insurancecoverageblog.com/archives/first-party-insurance-katrina-roundup.html

I'm in one of those stretches of work that don't leave me a great deal of time for luxuries like blogging, sleep and seeing my family, so bear with me the rest of this week. How do I gauge when it's one of those stretches? When I see more of the night janitors at work than I do my family. Here's some Katrina-related news:

-- I saw this post on the Scruggs Katrina Group blog <http://scruggskatrinagroup.wordpress.com/2007/05/19/honoring-whistleblowers/> this morning about honoring whistleblowers, specifically the Rigsby sisters who left State Farm contractor E.A. Renfroe alleging irregularities in Katrina claims adjusting practices and carrying an arm load of documents, and wound up with $150,000 consulting contracts from SKG. Zach Scruggs says in the post that the sisters were only being paid what they made with Renfroe, no more. Lucrative business apparently, this claims adjusting, no matter which side of the equation you fall on. Zach provides a valuable service by putting up this pdf of the March 19-20 contempt hearing <http://www.scruggskatrinagroup.com/docs/contempt_hearing.pdf> in the Renfroe case against the Rigsby sisters in U.S. District for the Northern District of Alabama. Renfroe is suing them for alleged breach of their confidentiality agreement by copying off claims documents while they were still employed by Renfroe and giving them to Dickie Scruggs for use in Katrina lawsuits against State Farm, which Renfroe worked for. Now, I don't have time to read the entire transcript just at this time, but one of the things I found interesting was that the Riegbies had been copying documents for some time and slipping them to Dickie Scruggs. There was talk of a "mole" in the office, and they apparently knew their days of employment with Renfroe were numbered, so they hurried up and copied more documents (pages 106-108). I also did not know until I saw this transcript that the Rigsbies had filed their own lawsuit against Renfroe in the Southern District of Mississippi <http://www.insurancecoverageblog.com/Rigsby%20lawsuit%20against%20State%20Farm.pdf> in January for alleged abuse of process, wrongful discharge and intentional infliction of emotional distress. The case docket says they voluntarily dismissed the suit without prejudice -- meaning they could refile it -- a few days later.

-- More action in the Renfroe lawsuit against the Rigsbies and the contempt proceedings

stemming from Dickie Scruggs' and Kerri Rigsby's alleged failure to abide by an injunction regarding the return of the Renfroe documents. Here is a pdf of Kerri Rigsby's brief filed May 18 in response <http://www.insurancecoverageblog.com/Kerri%20Rigsby%20response.pdf> to Renfroe's motion for her to show cause why she should not be held in criminal contempt. In essence, the brief says she her recent media statements about State Farm getting caught making changes to Katrina engineering reports did not rely on documents she took from Renfroe, but were instead informed by publicly available documents and media reports. Here is a pdf of Scruggs' reply brief, also filed May 18 <http://www.insurancecoverageblog.com/Rigsby,%20Scruggs%20response%282%29.pdf> , to Renfroe's motion for contempt sanctions. In it, he basically says he complied with the injunction by returning the documents taken by the Rigsbies -- except for sending a set to the Mississippi Attorney General, and these were soon returned to Renfroe, so Renfroe suffered no harm.

-- Here is a story from Rebecca Mowbray of the Times-Picayune <http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-8/1179844028234300.xml&coll=1&thispage=1> about apparent different charges for materials by Allstate for houses in Louisiana that had suffered both flood and wind damage. According to the story, there is evidence Allstate charged more for replacing flood damage that would be paid out of the National Flood Insurance Program, but unrealistically low prices for wind damage that it was responsible for, thereby shifting its responsibilities to the NFIP. A couple things I note about this story. It looks like a primary source for it is Brian Martin, policy director for Rep. Gene Taylor of Mississippi and a frequent commenter on this blog. I also note that the story says the evidence indicates Allstate was the only insurer doing this, while Taylor and others have frequently said all insurers ripped off the NFIP. In fairness, overcharging for flood damaged materials is a different sort of alleged abuse than initially misclassifying wind damage as flood damage, but why would only one insurer do this if it is part of a collusive pickpocketing of the Treasury? And why in Louisiana, when we have not heard similar charges from Mississippi? Thirdly, I note that Brian is quoted as saying he and Taylor "suspect" it was the insurance companies who were behind FEMA's expedited Katrina flood adjustment program that waived proofs of loss by policyholders. In comments on this blog, Brian has previously flat-out said that the insurers were behind the FEMA directive, and in fact requested it.

-- Here's a story that says Allstate has received a second subpoena <http://chicagobusiness.com/cgi-bin/news.pl?rssFeed=news&id=25050> , this one from a federal grand jury investigating Katrina claims handling. It got one earlier from the Department of Homeland Security, which is investigating the same thing at the directive of Congress (the Homeland Security report was due April 1, but is obviously way overdue like everything to do with the government, except apparently flood payments, which were paid too quickly). Here's another story <http://www.businessweek.com/ap/financialnews/D8P737TG0.htm> that says Nationwide got a subpoena too.

-- Here is a further story on the *Weiss v. Allstate* case <http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-8/1179643936234300.xml&coll=1> in Louisiana about the inflated contents payout to the Weisses. The story says the person who compiled the list -- which included stuff the Weisses didn't own and which they said they never submitted as losses -- couldn't be found for trial. It might be something shady or maybe someone just got mixed up and stuck the wrong list of stuff in the Weisses claim. Apparently Mrs. Weiss reviewed the list prior to it being submitted for payment, but didn't notice anything wrong at the time due to haste or distractions. Apparently the Weisses also didn't question why they got a $100,000 contents payout under their flood insurance policy when they submitted a claim for $38,000, and were just glad to get some money for their loss. It is interesting, but possibly not connected at all, that the number of stories about Allstate has increased notably since the Scruggs Group filed 280 lawsuits against Allstate <http://www.scruggskatrinagroup.com/press-mar_7.asp> Probably just a coincidence.

-- Finally, here is a story by Brian Faler of Bloomberg News <http://www.bloomberg.com/apps/news?pid=20601070&sid=aYjjlGyPeltA> about Trent Lott's continuing insurance war. Here's the money quote:

> ``I'm like a woman scorned,'' Lott says. ``I'm prepared to continue to kick their fanny until the last day I'm alive on this Earth because they have mistreated too many people.''

How does that saying go? Hell hath no fury like a woman scorned <http://www.bartleby.com/59/3/hellhathnofu.html> ? In the context of the saying, "scorned" meaning, of course, rejected in love. And we all know that being scorned calls for one thing and one thing only: a good old-fashioned campaign of perpetual, incessant fanny kicking that lasts until the day the Reaper comes knocking. One note of equivocation in the Trent Lott anti-scorn crusade: he does allow that he is "prepared" to fanny kick till he breathes no more, but does not guarantee that he will actually do so, giving perhaps just a little wiggle room for him to rest his tired and sore kicking foot after some time has elapsed.

—

You are currently subscribed to alert-scruggs as: jfeyerherm@rendon.com.

Quitam

IN THE UNITED STATES DISTRICT COURT OF MISSISSIPPI
SOUTHERN DISTRICT

UNITED STATES OF AMERICA EX REL. CORI RIGSBY, AND KERRI RIGSBY,

Relators,

vs

CASE NO. 1:06cv433 Sealed

STATE FARM MUTUAL INSURANCE COMPANY

NATIONWIDE INSURANCE COMPANY

ALLSTATE INSURANCE COMPANY

USAA INSURANCE COMPANY

FORENSIC ANALYSIS ENGINEERING CORPORATION

EXPONENT FAILURE ANALYSIS

HAAG ENGINEERING CO.

JADE ENGINEERING

RIMKUS CONSULTING GROUP INC.

STRUCTURES GROUP.

E. A. RENFROE, INC

JANA RENFROE

GENE RENFROE

ALEXIS KING

TO BE FILED IN CAMERA AND UNDER SEAL

Pursuant To 31 Usc § 3731

RELATOR'S FIRST AMENDED COMPLAINT FOR DAMAGES UNDER THE FALSE CLAIMS ACT, 31 USC § 3729 ET SEQ.

COMES NOW Relators in the above-entitled action, and for their cause of action state and aver as follows:

CAUSE OF ACTION

1 This is an action to recover damages and civil penalties on behalf of the United States of America arising out of the false claims presented for payment by the defendants under the National Flood Insurance Program, 42 USC § 4001, et seq. This is a cause of action brought by a relator pursuant to 31 USC § 3729 and the qui tam provisions of that statute found at 31 USC §§ 3730 and 3731.

2. 31 USC § 3730(b)(2) provides that "The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information." Plaintiff is filing this matter under seal.

3. A copy of the evidentiary disclosure required by the False Claims Act has already been served on the United States. A second, supplemental disclosure was made on December 8, 2006.

JURISDICITON AND VENUE

4. 31 USC § 3732 provides that: "Any action under section 3730 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in

which any act proscribed by section 3729 occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States."

5. As established by the pleadings, *infra*, defendant State Farm Mutual Insurance Company transacts business in this judicial district and this action may properly be brought against it in this district.

6. As established by the pleadings, *infra*, defendant Nationwide Insurance Company transacts business in this judicial district and this action may properly be brought against it in this district.

7. As established by the pleadings, *infra*, defendant Forensic Analysis Engineering Corporation transacts business in this judicial district and this action may properly be brought against it in this district.

8. As established by the pleadings, *infra*, defendant E. A. Renfroe, Inc., transacts business in this judicial district and this action may properly be brought against it in this district.

9. As established by the pleadings, *infra*, defendants Jana and Gene Renfroe, as the principals of E. A. Renfroe, Inc., have transacted business in this judicial district and this action may properly be brought against it in this district.

10. As further established by the pleadings, the acts proscribed by § 3729 occurred in this judicial district.

PARTIES

11. Relator, Cori Rigsby is a citizen and resident of the State of Mississippi and is employed by E. A. RENFROE, INC., a company that is an independent contractor for State Farm Mutual Insurance Company, USAA and Nationwide Insurance Company. She is a claims manager and from time to time has witnessed the events set forth herein.

12. Relator Kerri Rigsby is a citizen and resident of the State of Mississippi and is employed by E. A. RENFROE, INC., a company that is an independent contractor for State Farm Mutual Insurance Company, USAA and Nationwide Insurance Company. She is a claims manager and from time to time has witnessed the events set forth herein.

13. Defendant State Farm Mutual Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company. At all times relevant herein it has done business in this judicial district and the acts complained of occurred here.

14. Defendant Nationwide Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company. At all

times relevant herein it has done business in this judicial district and the acts complained of occurred here.

15. Defendant USAA Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company At all times relevant herein it has done business in this judicial district and the acts complained of occurred here.

16. Defendant Allstate Insurance Company is a company authorized by the Federal Emergency Management Agency (FEMA) to write flood insurance under the Standard Flood Insurance Policy ("SFIP"), 44 CFR §§ 61.4(b), 61.13(d), (e), 62.23(c). See also 44 CFR 62, App. A. Federal regulations characterize this company as a "WYO" or "write your own" company. At all times relevant herein it has done business in this judicial district and the acts complained of occurred here.

17. Defendant Forensic Analysis Engineering Corporation is a Mississippi engineering firm providing forensic analysis for insurance agencies for the purpose of categorizing damage as being of one type (wind) or another (water). In this case FAEC provided materially false engineering reports at the request of State Farm Mutual Insurance for the sole purpose of convincing FEMA to pay property damage claims out of flood insurance rather than hurricane or homeowner's insurance, as is more fully set forth herein.

18. Defendant Exponent Failure Analysis is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

19. Defendant Haag Engineering Company is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

20. Defendant Jade Engineering is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

21. Defendant Rimkus Consulting Group, Inc., is an engineering firm providing consulting services to defendants State Farm and on information and belief,

Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

22. Defendant Structures Group is an engineering firm providing consulting services to defendants State Farm and on information and belief, Nationwide, Allstate, and USAA Insurance Companies for the purpose of determining whether claims arose from wind or water damage. On information and belief these firms provided false or fraudulent engineering reports at the request of defendants Nationwide and State Farm, and materially participated in the conspiracy to defraud the United States.

23. Defendant Structures Group, Rimkus Consulting Group, Inc, Haag Engineering Company, Jade Engineering, Exponent Failure Analysis, Forensic Analysis Engineering Corporation are all collectively referred to herein as "Engineering Defendants."

24. Defendant E. A. Renfroe, Inc., operated as a closely-held corporation by Gene and Jana Renfroe, defendants herein, is a business that provides adjusters to insurance companies during periods of natural disaster, and in the case of Hurricane Katrina, provided Kerri Rigsby and Cori Rigsby to State Farm Mutual Insurance Company as leased employees for the purpose of cloaking them with authority to adjust claims on behalf of State Farm Mutual Insurance. As more fully set forth infra, Defendant actively conspired with

State Farm Mutual Insurance Company to defraud the federal government on Flood Insurance Claims.

25. Defendants Jana and Gene Renfroe, who are officers or directors of E.A. Renfroe, Inc., conspired with State Farm Mutual Insurance Company and with others to retaliate against Cori and Kerri Rigsby as a result of their gathering information to support a claim under 31 USC § 3729 et seq.

26. Defendant Alexis "Lecky" King is a supervisory adjuster with State Farm and at all times directed the fraudulent acts perpetrated by State Farm and Renfroe adjusters.

BACKGROUND FACTS

RELATORS

27. Relators worked for E. A. Renfroe, a company that provides disaster claims management services (and claims representatives) for defendants State Farm Mutual Insurance Company, USAA and Nationwide Insurance Company. In the course of their duties as employees of the EA Renfroe firm, they have been personally pressured by defendant State Farm's and E.A. Renfroe's supervising claims personnel to change claims payments. They have full and independent knowledge of the facts and circumstances surrounding the allegations made in this complaint, and learned this information in their capacity as employees, and through no other source. They made a report to federal and state law enforcement officials prior to filing this action.

28. Relators began their efforts as independent adjusters and team managers for the State Farm Mutual Insurance Company Catastrophe Team (aka "CAT" team), on September 2, 2005, when State Farm brought them, as leased employees, to Gulfport MS for the purposes of adjusting claims for victims of Hurricane Katrina.

29. On or about April 19, 2006, Relators presented a full evidentiary disclosure to the United States Attorney for the State of Mississippi, turning over substantially all material evidence in their possession, as well as providing a detailed personal account of the wrongdoing and fraudulent conduct engaged in by the Defendants. Relators did not file this action until full disclosure had been made to the United States Attorney.

30. Following the submission of the evidentiary disclosure, but before meeting with the United States Attorney, relators set about to gather additional evidence of fraud on the federal government.

31. On or about June 3rd, 2006, Relators accessed the files of State Farm Mutual Insurance Company and copied selective information from the computer files of the insurer that showed, in their view, that State Farm had engaged in wire fraud, mail fraud, fraud in violation of 31 USC § 3729, had submitted false claims, and had destroyed evidence of multiple engineer reports.

32. On or about June 5, 2006, Relators informed State Farm that they had taken the documents and given them to federal prosecutors on the advice of their attorneys. On or about June 5th, prior to notifying State Farm, Cori Rigsby

entire claim, thereby relieving the company of its obligation under its own policy of insurance.

52. The term "flood" is narrowly defined by statute and rule:

a. 42 USC § 4121(1) states "the term 'flood' shall have such meaning as may be prescribed in regulations of the Director, and may include inundation from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge;"

b. The director has provided the following definition of flood:

Flood, as used in this flood insurance policy, means:

1. A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (one of which is your property) from:

a. Overflow of inland or tidal waters,

b. Unusual and rapid accumulation or runoff of surface waters from any source,

c. Mudflow.

2. Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined in A.1.a. above.

44 CFR Pt. 61, App. A(1)

53. During Hurricane Katrina, FEMA identified only small parts of the Mississippi coast as flood damaged, generally around Bay St. Louis. The remainder was identified as hurricane damage.

54. In most locations where a defendant insurance company has written flood insurance policies and collected premiums under the NFIP, the company has also written homeowners and hurricane insurance.

55. Under the arrangement between the company and FEMA, (44 CFR Pt. 62, App. A), the government requires when the company writes coverage for other perils and flood insurance, that one adjuster be used.

REALLOCATION OF WIND CLAIMS TO FLOOD CLAIMS

56. On information and belief, beginning at about the time the first claims began to come through adjusters for Hurricane Katrina, defendant insurance companies made a corporate decision to misdirect and misallocate claims from those of hurricane coverage (which a company would be required to pay from its reserves or reinsurance) to flood claims that could be submitted and paid directly from the United States Treasury. They communicated this decision directly or indirectly to the E.A. Renfroe company when they sought compliant and poorly-trained adjusters to assist in the handling of flood-related losses.

57. In order to facilitate the misallocation, State Farm ordered an engineering survey on every claim that involved a "slab" (a loss where there was nothing left but foundation), a "popsicle stick" (a loss where there were only beams or

pilings remained standing), or a "cabana" (a loss where a roof remained but the main interior of the building had been damaged due to wind, flood, or otherwise).

58. State Farm's view was that it was better to pay $1,500 for an engineering report if it would save them up to $350,000 on a homeowner's claim.

59. On information and belief, defendant State Farm directed its employee adjusters and independent contractor adjusters (supplied by defendant E.A. Renfroe, Inc., and supervised by Renfroe employees including Jana and Gene Renfroe) to show flood damage whenever and wherever there was any amount of water damage, and to adjust the claim as flood insurance rather than hurricane insurance even though the primary mechanism for damage was wind, not flood waters.

60. In addition, when directing adjusters to categorize claims as flood damage and shift responsibility to the government for payment of the claim under flood insurance, State Farm insisted that adjusters "hit limits" when adjusting flood claims.

61. This "hit the limits" instruction was a *quid pro quo* to E. A. Renfroe for its compliance with the flood-fraud scheme in that adjusting costs paid to State Farm under the Flood Insurance Program are linked directly to the amount of damage paid to the insurer.

62. Specifically, adjusters were told that if they initially analyzed a claim and found that the insured had less damage under flood coverage than policy

limits allowed, the adjuster was told to go back through the claim a second time to ensure that the flood claim "hit limits." Adjusters used a computer program designed by State Farm known as "XACT Total" as a shortcut to determine the amount of damage for a claim. XACT Total was used to make determinations of total flood loss even in homes that sustained moderate flood damage.

63. On information and belief, particularly where the wind (and not the water) made a structure unsalvageable, the claims were misallocated into flood insurance claims because flood insurance claims were paid by the US Treasury and did not come out of the company's reserves.

64. This misallocation of claims has resulted in significant damage to the federal treasury.

SPECIFIC INSTANCES OF REALLOCATION OF WIND CLAIMS TO FLOOD CLAIMS

65. Relators are aware of two specific instances where Defendant State Farm has engaged in reallocation of claims from wind damage to flood damage.

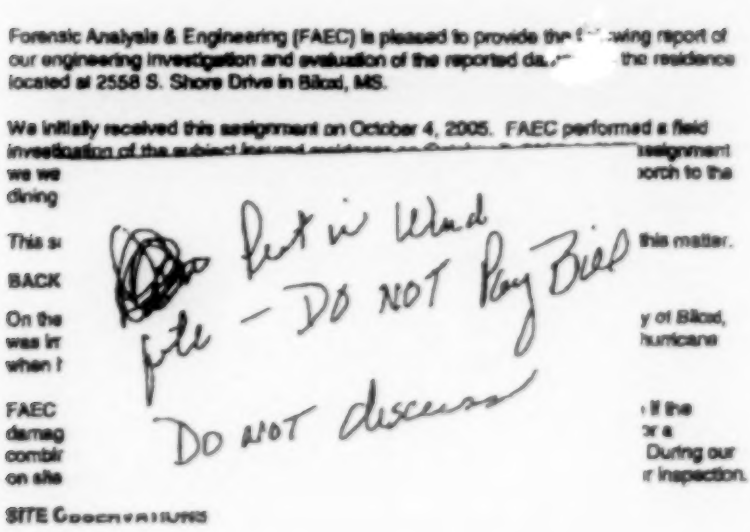
66. On October 4, 2005, State Farm Mutual Insurance Adjuster Cody Perry issued an assignment to defendant Forensic Analysis Engineering Corporation (FAEC) for the purpose of having FAEC determine the nature of the destruction of the property located at 2558 S. Shore Dr., Biloxi, MS. FAEC carried out the assignment on October 7, 2005. The firm did a site inspection and reached conclusions based on the inspection.

67 The engineering firm concluded that the damage that occurred to the insured's home at the time of the hurricane was due principally to wind, and not to water.

68. That report was dated October 12, 2005. The report said:

> **CONCLUSIONS**
>
> Based upon the information that has been presented to FAEC and evidence gleaned during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusion concerning the damage to the structure.
>
> - The tree failures in the northwesterly direction are the result of the winds out of the southeast from the approaching hurricane.
> - The roof, door, carport, and window damage was caused by wind and wind driven debris.
> - It is FAEC's opinion that the interior damage of the structure is primarily the result of the failure of the windows, walls, and doors due to wind.
>
> The conclusions and opinions presented in this report are based on the results of FAEC's field investigation of the subject residence, as well as our analysis of the available wind and localized water level data and upon all of the other associated information that we have gathered during the course of our investigation efforts to date. If additional information or facts become available which materially affect these stated conclusions and opinions, then, FAEC reserves the right to amend or change its opinions and conclusions as needed.

69. This report never became part of the permanent record of the McIntosh claim because it was recognized as contrary to the direction given to State Farm adjusters. On information and belief, State Farm CAT Corrdinator Alexis "Lecky" King wrote the following note on the report: "Put in Wind file – DO NOT pay bill. Do Not Discuss" A copy of that note is shown below:



Forensic Analysis & Engineering (FAEC) is pleased to provide the f[illegible]owing report of our engineering investigation and evaluation of the reported da[illegible] the residence located at 2558 S. Shore Drive in Biloxi, MS.

We initially received this assignment on October 4, 2005. FAEC performed a field investigation of the subject insured residence on [illegible] assignment we we [illegible] north to the dining

This s[illegible] this matter.

BACK

On the [illegible]y of Biloxi, was in[illegible] hurricane when I

FAEC [illegible] If the damag[illegible] or a combi[illegible] During our on site [illegible] inspection.

SITE OBSERVATIONS

Put in Wind file - DO NOT Pay Bird

DO NOT discuss

70. Thereafter, on October 20, FAEC was commissioned to write a completely different report. The second report was based on a site visit of October 18, 2005, and never disclosed the prior site visit. The observations in this second report did not contain any observations from the previous report, and contained numerous observations that were completely contrary to the findings in the first report. Thereafter, the report found:

CONCLUSIONS

Based on the information that has been presented to FAEC and evidence gleaned during our inspection, FORENSIC ANALYSIS & ENGINEERING CORPORATION has made the following conclusions concerning the damage to the structure:

- **The tree failures in the northwesterly direction are the result of the winds out of the southeast from the approaching hurricane.**
- **There appears to have been damage to the structure by wind as evidenced by missing shingles on parts of the roof structure. Damage to the second story floor and first floor ceilings was predominately caused by wind and intruding rainwater.**
- **The damage to the first floor walls and floors appears to be predominately caused by rising water from the storm surge and waves.**

71. On or about September 26, 2006, State Farm representative Christy Sims commissioned a study by FAEC on the Mullins home at 6057 Pine Tree Drive, Kiln, MS.

72. Among the observations made by the engineers were that the structure had already been removed from the site, as required by FEMA, and that much of their analysis was based on photographs provided to the engineers by the homeowners.:

SITE OBSERVATIONS

The following are the observations made during FAEC's inspection of the structure:

- **Upon approaching the property the house had been already removed from the site as required by FEMA.**

- **From attached photographs provided by the insured, the entire house had been taken off from its support piers and came to a rest against the house across the street. The house had rotated about 180 degrees and its front was facing south. The porch area was about in line with the center of the street.**
- **No significant damage to the house was observable in the insured's photos, except for the contact point with the neighboring house across the street.**
- **According to the insured, the water had rose to 10 inches above the floor level at a neighboring residence close by. No water damage to the house could be appreciated from the photographs nor observed from the surroundings.**
- **The 24 inches high concrete block piers were in complete disarray. The blocks were not joined to each other nor anchored to the ground.**
- **With very few exceptions, all the trees around the observable area were standing straight and with all their foliage remaining.**

73. The report concluded that the damage was due primarily to wind, and not to flooding.

74. The report's conclusion section stated:

CONCLUSIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how those conditions effected the neighborhood area of the insured residence conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated:

- **FAEC has concluded that the primary and predominant cause of damage to the subject property was due to hurricane force winds. This is based on the displacement of the house and the absence of water damage to the same. However, this displacement was facilitated by the poor anchoring and supporting observed**

75. Thereafter, or on about January 3, 2006, FAEC submitted a different report predicated on the same site visit of October 11, 2005, but not mentioning the prior report. Observations from the second report included:

- **There was tree damage in the neighborhood with trees falling to the west northwest.**
- **There was shingle damage to houses nearby.**
- **The owner of the trailer across the street, whose home was impacted by the insured's, indicated that the water had come up to the bottom of her trailer. This was estimated to be between 2 and 3 feet above grade.**
- **The foundation for the insured's home consisted of concrete block piers about 2 feet above grade. No tie downs were observed, however one photograph furnished by the insured pictured, what appeared to be, a minimally effective tie down.**

76. In addition, the conclusion of the second report stated a completely different finding than the original report of October 11, 2005.

77. The second report concluded that the damage was due to flood waters, saying:

CONCLUSIONS & OPINIONS

Based on the information that has been presented to FAEC, evidence gleaned during our inspection, and our understanding of the storm water and wind conditions associated with Hurricane Katrina and how those conditions affected the neighborhood area of the insured residence conditions at the time of the storm, FORENSIC ANALYSIS & ENGINEERING CORPORATION makes the following conclusions regarding the claimed damage and the integrity of the property investigated:

- **The tree failures in the northwesterly direction were the result of winds out of the southeast from the approaching hurricane.**
- **The damage to the interior of the house could not be determined as no evidence was available.**
- **The movement of the house across the street with minimal obvious wind damage is consistent with a buoyant force applied to the building by rising water allowing the wind to blow the house northwards until it reached an obstruction.**

SPOLIATION OF EVIDENCE

78. On our about April 12, 2006, relators learned that defendant State Farm Mutual Insurance Company had in fact engaged the services of a commercial document shredding company, "Shred It." Relators were told by at least one State Farm employee that some claims data and/or engineering reports associated with the fraudulent conduct in this case were being shredded. Whether or not Shred-It was employed to shred particular documents is unknown to the relators, but relators' strong suspicion is that data necessary to prove fraud were and are being shredded.

79. At some point prior to being subpoenaed by the Attorney General of Mississippi and private civil lawyers, Alexis King and Richard Moore sent out a memorandum to all staff adjusters at State Farm that indicated that the original engineering reports on all claims files were held under lock and key, and only those two people could release them.

80. Sometime later, with respect to these original engineering reports that had been stacked on Ms. King's desk at a height of more than one foot tall, State Farm went to a "paper lite" system that caused them to "scan" into the computer one engineering report and discard, scan, shred, spoliate or destroy any other engineering reports generated by the purported independent engineering firms.

81. On or around November 11, 2005, State Farm sent facsimile transmissions to many of the Engineering firms. That fax stated, for example, "Structure Group. Please cancel this assignment. Claim Number 24-Z455-169. Insured: Balius. Thanks. Catastrophe Team Manager David Haddock, 11-11-05. If you have already inspected this loss, do not write the report. Send your investigation material with your bill. Send the report if completed."

82. The purpose of these cancellations and facsimile transmissions was to recall the directive requiring engineering reports to be submitted with all claims and to prevent further engineering reports from being submitted containing determinations that damages were the result of causes other than water.

83. State Farm, while ordering these engineering reports, did not allocate blocks of claims in particular regions to specific engineering companies, and in fact, assigned some claims early on to engineering companies like Dreux Seghers who reported the cause of the damage as wind, and who, when contacted by the Defendants, refused to change their report to reflect that the damage was caused by water.

84. A compilation of all claims assigned to some of the engineering firms shows the Defendants caused an exceptionally high rate of cancellation of engineering reports from those firms, like Dreax Seghers, that routinely concluded that wind, and not water, was the causative agent of the damage. The compilation of claims shows that engineering reports were requested from Dreux Seghers' firm only 79 times and that 32 of those reports were subsequently cancelled (41% cancellation rate). By contrast, Defendants requested 214 engineering reports from Exponent Failure Analysis and that only 36 of those reports were subsequently cancelled (17% cancellation rate).

85. The actions of the defendants in spoliating evidence of their fraud on the federal government led the relators to obtain documents on June 3, 2006, in order to substantiate the fraud being committed on the US Government.

INCONSISTENT ENGINEERING ASSESSMENTS

86. Because there was not an area-by-area assignment of engineering firms, great disproportionality resulted in the reports received. One example can be found in the claim of Anna Vela of Biloxi.

87 Vela's claim was evaluated by Dreux Seghers who concluded that the cause of the damage was wind.

88. The team manager, Mark Drain, concluded that the engineering report required him to pay the full policy limits under the wind coverage.

89. The supervisor, Alexis "Lecky" King told Drain that the engineer was a "moron" and that the report should be sent back to the engineer to get him to correct his report to show flood damage.

90. King then left the office for a few days and Drain, seeing an issue with an engineering report he commissioned being used as the basis to deny rather than pay the claim, paid the full policy limits under the wind coverage.

91. There were numerous other claims for wind and water damage on the same street (Baywood Drive). All of those claims by State Farm (and other insurers) were denied for wind damage, resulting in inconsistent determinations.

GRANT FRAUD

92. In October, Congress passed a grant program for gulf coast Katrina victims.

93. The flood grant program was designed to provide a source of rebuilding funds for persons who suffered casualty losses due to flood but who did not live in a flood plain and did not have flood insurance, and their homeowner's claims were denied for that reason.

94. On or about April 18, 2006, Ryan Murphy, a State Farms Claims Team Manager ordered after a mediation that payments originally destined to compensate under Coverage A (Homeowners) be reallocated to Coverage C (contents) so as to permit the policy-holders to apply for the grant program.

95. By employing engineering reports that reallocated losses to "flood" instead of homeowners, State Farm, Nationwide, and other insurers essentially pushed off their responsibility to pay claims onto the federal government.

96. By refusing to pay based on false engineering reports, the defendants caused Katrina Victims to submit false claims to the federal government's flood grant program.

BACKDATING OF CLAIMS

97. On information and belief State Farm Agent Mike Myers did not have Flood Insurance through the NFIP before Katrina hit the Biloxi area.

98. In addition to Myer's own failure to have insurance, several of his friends and associates did not have flood insurance.

99. In spite of the failure to have flood insurance in place before the storm hit, Myers, working with someone in underwriting at State Farm, backdated a policy for himself and for several others who did not have flood coverage.

100. This permitted Myers, among others, to submit claims for flood insurance even though the victims did not have flood insurance before the storm hit.

ADJUSTING EXPENSES

101. Under the rules of the NFIP and pertaining to adjustment of claims, the insurance company must use the same adjuster to adjust the claim for homeowners and flood insurance.

102. During Katrina, independent adjusters were employed to adjust claims.

103. As noted earlier, adjusters were told, when adjusting claims involving flood insurance, to "hit the limits" regarding the flood coverage.

104. When an independent adjuster handles a claim for the flood program and the policy holder has the maximum policy limits ($250,000 structure, $100,000 contents), the adjuster is paid by the federal government a fee of approximately $7,000.

105. This $7,000 amount is passed along to the Flood Insurance Administrator as an adjusting cost with a markup by State Farm.

106. By passing a loss over to the FIA and the NFIP, State Farm not only benefited by not having to pay the claim, but was able to transfer their adjusting costs to the FIA through the NFIP. This was a *quid pro quo* to E.A. Renfroe who directly benefited from the acts of State Farm.

107. The amount of administrative fees that State Farm receives from the FIA and the NFIP is a sliding scale based on the amount of the claim being paid. The amount of the administrative fee goes up in accordance with the amount of the flood loss claim.

COUNT I
VIOLATION OF 31 USC § 3729(a)(1)

108. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 107 as if fully set forth herein.

109. Defendants State Farm Mutual Insurance Company, E. A. Renfroe, Inc., Alexis King, Jana Renfroe, Gene Renfroe, and the various engineering defendants, acting through their employees, officers, agents and independent contractors knowingly presented or caused to be presented claims for payment of flood damage.

110. On information and belief, Defendants Allstate, USAA Insurance Company, and Nationwide Insurance Company acting through their employees, officers, agents and independent contractors knowingly presented or caused to be presented claims for payment of flood damage.

111. Defendants' claims are direct charges against the United States Treasury and were presented to the Federal Insurance Administrator, FEMA, or its agents who are officers or employees of the United States Government.

112. The claims presented by Defendants were false or fraudulent in that:

a. Damage to property that was more properly reflected as wind damage, and structural damage due to wind and flying debris was characterized in adjusters reports as "flood damage" even though it did not meet the

definition of "flood" found in the Standard Flood Insurance Policy, 44 CFR Pt. 61, App. A(1).

b. Claims were submitted for property that were outside the area designated as flood damaged by FEMA, where there was no evidence that the damage met the definition of "flood" found in the Standard Flood Insurance Policy, 44 CFR Pt. 61, App. A(1).

c. Defendants submitted claims for flood losses to the NFIA when engineering reports stated that the damages were due to wind, not water.

d. Defendants submitted costs and expenses for adjusting flood claims that were in fact wind or hurricane claims.

e. Defendants permitted agents to backdate insurance applications for flood coverage and submit damage claims when, in fact, there was never any coverage for the flood damages.

f. Defendants inflated flood claims to the maximum amount possible to push off costs due to wind onto the Federal Government.

113. The claims were submitted or caused to be submitted and presented or caused to be presented by Defendants through their agents or employees for payment or approval by the United States Government.

114. The claims were paid by the United States Government, through withdrawals of funds held by the United States Treasury, consistent with the procedure set up under the National Flood Insurance Program.

115. As a direct and proximate result of paying millions of dollars in flood insurance claims that were in fact claims for hurricane damage, the United States Treasury sustained millions of dollars in damages.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam Plaintiff under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT II

VIOLATION OF 31 USC § 3729(a)(2)

116. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 115 as if fully set forth herein.

117. Defendants, State Farm Mutual Insurance Company, E. A. Renfroe, Inc., Jana Renfroe, Gene Renfroe, Alexis King, and the Engineering Defendants, acting through their officers, employees, agents, adjusters, and independent contractors knowingly made, used, or caused to be made or caused to be used, false records in support of false claims.

118. On information and belief, Defendants Allstate, USAA Insurance Company, and Nationwide Insurance Company acting through their employees, officers, agents and independent contractors, knowingly made, used, or caused to be made or caused to be used, false records in support of false claims.

119. Those false records included, but were not limited to:

a. False adjustment reports which were false in that they misidentified the nature of the damage as flood damage where there was no evidence that the damage met the definition of "flood" found in the Standard Flood Insurance Policy, 44 CFR Pt. 61, App. A(1).

b. False factual findings reported to FEMA or the FIA that showed that property was damaged by flood when in fact these properties were outside the area designated as flooded by FEMA.

c. False statements of adjusters reflecting findings of flood damage when the real structural damage had been caused by wind, or rain.

d. False attestations of facts on forms directing payment to be made under flood policies.

e. False statements to homeowners, engineers, adjusters, and others in that one report by the same company concluded that the damage was due to wind, and a second, later, re-written report reflected that the damage was caused by flood.

f. False expense reports submitted to the FIA for NFIP adjustment expenses.

120. Defendants submitted or caused to be submitted these false records or statements in order to get false or fraudulent claims paid or approved by the Government under the National Flood Insurance Program.

121. As a direct and proximate result of the submission of the false claims and false records and reports, the United States Treasury paid millions of dollars in claims for flood insurance that should have been paid by the Defendants.

122. As a direct and proximate result of paying millions of dollars in flood insurance claims that were in fact claims for hurricane damage, the United States Treasury sustained millions of dollars in damages.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam Plaintiff under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT III
VIOLATION OF 31 USC § 3729(a)(3)

123. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 122 as if fully set forth herein.

124. Defendants, State Farm Mutual Insurance Company, E. A. Renfroe, Inc., Jana Renfroe, Gene Renfroe, Alexis King, and the Engineering Defendants, acting through

their officers, employees, agents, adjusters, and independent contractors conspired to defraud the Government by getting false or fraudulent claims allowed or paid.

125. On information and belief, Defendants Allstate, USAA Insurance Company, and Nationwide Insurance Company and the Engineering defendants, acting through their employees, officers, agents and independent contractors, conspired to defraud the Government by getting false or fraudulent claims allowed or paid.

126. Defendants conspired with:

a. outside adjusters, including adjusters specially hired to adjust the losses in the Hurricane Katrina area, and directed them to service homeowners with claims. The names of these individual adjusters and adjustment companies are not all known to the Relators but are discoverable by the government.

b. Agents, officers, employees or servants of Forensic Analysis Engineering Corporation, FEAC, to have those agents, officers, employees or servants issue false and misleading engineering analysis reports, and to "correct" any analysis reports that showed that the damage was due to any cause other than flooding.

c. Agents, officers, employees or servants of other Engineering firms, whose names are unknown to Relators presently but who are discoverable by the government.

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d. Defendants conspired, on information and belief, with certain homeowners by instructing them to fill out their homeowners insurance claims and hurricane damage claims as flood insurance claims promising to maximize flood insurance claim damage in exchange for not collecting under homeowner's coverages.

i. Defendants, on information and belief, instructed their insureds to fill out their claim forms in this manner so as to misallocate the liability for payment to FEMA, the FIA, and the National Flood Insurance Program.

127. Defendants conspired with engineers who were independent contractors offering them material inducements (continuing business relationships) to submit flood insurance claims instead of hurricane or homeowners claims.

128. Defendants conspired with purportedly independent FEAC and other engineering firms (John Does 1 – 4) yet to be discovered directing them to find flood damage instead of wind damage so as to permit the maximum payout from federal funds rather than from the Defendants' Nationwide and State Farm Mutual Insurance Company's reserves. On information and belief, if an engineering firm refused to change a determination to "flood" State Farm and Nationwide would no longer hire that engineer to provide engineering consulting services.

129. When the engineering firm neglected to find flood damage, the insurance companies would refuse to pay invoices until the reports were reclassified as flood, thereby placing undue pressure upon and exercising control over

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purportedly independent contractors for the purpose of furthering the conspiracy to defraud the government.

130. Defendant E. A. Renfroe, Inc., conspired with State Farm and its employee Alexis "Lecky" King. The relationship between parties is set out below:

Defendant	Conspired With
State Farm Mutual Insurance Company	E. A. Renfroe Jana Renfroe Gene Renfroe Engineering Defendants
Nationwide	Engineering Defendants
USAA	Engineering Defendants
Allstate	Engineering Defendants
Alexis King	E. A. Renfroe Jana Renfroe Gene Renfroe
Jana Renfroe	Gene Renfroe State Farm Mutual Ins. Co. Alexis King
Gene Renfroe	Jana Renfroe State Farm Mutual Ins. Co. Alexis King

131. Defendants and their co-conspirators acted with the intent to deceive and defraud the United States Government by pushing off the responsibility for paying hurricane claims on the US Government and by causing purportedly independent engineering firms to re-write reports to transfer responsibility to the FEMA funds available under the NFIP.

132. Defendants took material steps in furtherance of the conspiracy, to wit:

a. State Farm Mutual Insurance Company submitted claims through the FIA to the NFIP and paid losses from federal funds instead of from its reserves.

b. E. A. Renfroe actively policed its loaned adjusters to ensure that no reports of the fraudulent activity were made.

c. Nationwide Insurance Company submitted claims through the FIA to the NFIP and paid losses from federal funds instead of from its reserves.

d. Defendant FAEC submitted replacement reports that were modified as a part of the conspiracy to reflect flood water damage instead of wind damage.

e. Alexis King communicated her intent to deceive in numerous emails sent, among other places, to Renfroes' local on-site manager.

133. As a direct and proximate result of the conspiracy to submit false claims the United States Treasury paid hundreds of millions of dollars in claims for flood insurance that should have been paid by the Defendants.

134. As a direct and proximate result of paying hundreds of millions of dollars in flood insurance claims that were in fact claims for hurricane damage or homeowners' insurance damage payable from the reserves of the Defendants' insurance companies, the United States Treasury sustained millions of dollars in damages.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the

United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam Plaintiff under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT IV

VIOLATION OF 31 USC 3729(a)(7)

(Reverse False Claims)

135. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 134 as if fully set forth herein.

136. Defendants knew or in the exercise of reasonable care should have known that claims presented to the United States Treasury for payment under the National Flood Insurance Program were false or fraudulent, and should not have been paid from federal funds.

137. As such, Defendants knew or in the exercise of reasonable care should have known that they were in possession of money that was rightfully that of the United States Government, since the reserves saved by paying claims from the NFIP should in fact have been paid out to policy-holders, and instead, those losses were passed along to the federal treasury.

138. Defendants knew that false records, specifically, false engineering and inspection reports were created in order to justify payment of claims from the NFIP

139. Defendants also knew that they were in possession of initial engineering reports that showed that the true cause of the damage was wind.

140. The original engineering reports should have been maintained in the claims folders along with all other records associated with the claims.

141. Instead, the engineering documents were pulled and any "original" documents showing wind damage were shredded by "Shred It" or by employees of Defendants.

142. When a document that would normally be a part of a record is removed, spoliated and/or destroyed it is the creation of a false record because the omitted documents create a false impression in the record.

143. Defendants knowingly created false records by omitting, concealing, suppressing, spoliating or destroying the original engineering reports and original invoices.

144. The suppression, omission, concealment, spoliation or destruction of the original reports and records was done to conceal, avoid, or decrease the Defendants' liability to repay the federal government.

145. The actions of the Defendants in creating false records in order to avoid or decrease a liability to the federal government resulted in damage to the federal treasury.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally in the amount of three times the overcharges submitted for payment to the United States Government, for a civil penalty against the Defendants each jointly and severally in an amount between Five Thousand, Five Hundred Dollars ($5,500.00) and Eleven Thousand Dollars ($11,000.00) for each violation of 31 U.S.C. § 3729, et seq., for the maximum amount allowed to the Qui Tam Plaintiff under 31 U.S.C. § 3730(d) of the False Claims Act or any other applicable provision of law, including any alternate remedy provisions, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

COUNT V

Retaliation Under 31 USC § 3730(h)

146. Relators restate, replead and incorporate by reference the information set forth in paragraphs 1 – 145 as if fully set forth herein.

147. At all times relevant herein relators were the joint employees of State Farm Mutual Insurance Company and E.A. Renfroe, Inc. At all times they were issued State Farm business card, State Farm shirts, State Farm Computers, worked out of State Farm offices, applying directives from State Farm in that State Farm, and not the relators, controlled the manner of work performed by the Relators. E. A. Renfroe was a joint employer in that while it did not direct their daily work, it did maintain a supervisory prescence that was at all times subservient to and acted upon the instructions of State Farm.

148. As established above, Defendants E. A. Renfroe, Inc., and State Farm Mutual Insurance Company was aware that relators had engaged in conduct protected under 31 USC § 3729 et seq. in that relators told defendants that they had copied evidence of fraud on the US government when they met with the defendants on June 5, 2006. Such conduct reasonably placed the defendants on notice that a false claims act case was a reasonable possibility. ***U.S. ex rel. Eberhardt v. Integrated Design and Construction, Inc.***, 167 F.3d. 861 (4th Cir. 1999).

149. At that meeting State Farm attorneys sought to pressure the relators to disclose the contents of what was copied to assist them in defeating relator's claims and for the purposes of hindering the federal government's investigation into the practices that led to the filing of this lawsuit. The presence of attorneys is additional evidence that State Farm was on notice of the likelihood of qui tam litigation.

150. As a result of engaging in protected concerted activity the relators were discriminated against in the terms or conditions of their employment by their then employer State Farm Mutual Insurance Company in that they were locked out of the building, told not to return, and were forced to resign from the storm because State Farm would not let them work. Such conduct constitutes retaliation in that it is reasonably likely to deter employees from engaging in activity protected under the FCA. ***Moore v. California Institute of Technology Jet Propulsion Laboratory,*** 215 F.3d 949 (8th Cir. 2000).

151. The conduct of copying documents, obtaining emails with directions to engage in felonious conduct, and preserving the evidence of the fraud, when State Farm had been repeatedly employing a "Shred It" service in order to avoid investigative subpoenas by the Mississippi Attorney General, was lawful protected concerted activity as set forth by 31 USC § 3730.

152. After State Farm discharged them from employment, relators were informed by E.A. Renfroe that E. A. Renfroe "accepted their resignations" (which had never been tendered) and E.A. Renfroe, working hand-in-hand with State Farm Mutual Insurance Company, discharged relators in retaliation for their protected concerted activity. Such conduct constitutes retaliation in that it is reasonably likely to deter employees from engaging in activity protected under the FCA. ***Moore v. California Institute of Technology Jet Propulsion Laboratory***, 215 F.3d 949 (8th Cir. 2000).

153. As a result of the retaliation against their protected concerted activities the relators have suffered damages including, but not limited to:

a. lost wages

b. lost fringe benefits

c. being "blacklisted" in the insurance industry such that no other employment is likely or possible.

d. they have incurred attorney's fees and expense in defending a frivolous claim asserted by Renfroe in the Northern District of Alabama.

e. They have suffered emotional distress.

f. They have had their personal computers hacked and information taken from their hard drives at home.

g. They have been followed, photographed, and surveilled and monitored electronically

h. Their friends and colleagues have been questioned.

i. Former spouses have been interrogated for purposes of learning intimate details that might be used to embarrass and harass the relators.

j. E. A. Renfroe has disseminated untruthful information to its employees and agents in the hopes that this information would damage the reputations and work availability of the relators.

154. As a direct and proximate result of the conduct of the defendants, and each of them, the relators have sustained economic and noneconomic injuries, including but not limited to those set out in Paragraph 153.

WHEREFORE, Relators demand judgment against the Defendants jointly and severally for a fair and reasonable amount to be determined by a jury, for its court costs and reasonable attorneys fees at prevailing rates, for expenses, and for such other and further relief as this Court deems meet, just and proper.

Respectfully submitted,

THE SCRUGGS LAW FIRM

Richard F. Scruggs
Sid Backstrom
Zachary Scruggs
120A Courthouse Square
P.O. Box 1136
Oxford, MS. 38655
662-281-1212

BARTIMUS, FRICKLETON,
ROBERTSON & GORNY, P.C.

Edward D. Robertson, Jr., MO Bar #27183
Anthony L. Dewitt, MO Bar #41612
Mary Doerhoff Winter, MO Bar #38328
Co-Counsel for Relators
715 Swifts Highway
Jefferson City, MO 65109
573-659-4454
Fax: 573-659-4460

Todd Graves, Esq.
Bartle, Marcus & Graves, PC
1100 Main Street # 2600
Kansas City, MO 64105
(816) 305-6288

ATTORNEYS FOR RELATORS

TRG (8-10-2010) 000156

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues for which a jury is available.

Respectfully submitted,

THE SCRUGGS LAW FIRM

Richard F. Scruggs
Sid Backstrom
Zachary Scruggs
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P.O. Box 1136
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Todd Graves, Esq.
Bartle, Marcus & Graves, PC
1100 Main Street # 2600
Kansas City, MO 64105
(816) 305-6288

ATTORNEYS FOR RELATORS

CERTIFICATE OF SERVICE

The undersigned certifies that on this 12th day of April, 2007, a copy of the foregoing Amended Complaint was served on the individuals below by first class mail, certified, return receipt requested to Dunn O. Lampton, US Attorney's Office, 188 E. Capitol St., Suite 500, Jackson, MS, 39201, and by placing the same in the United States Mail, first class postage affixed, certified, return receipt requested, and addressed to Alberto Gonzales, Esq., at the address below:

Dunn O. Lampton, Esq.
United States Attorney
188 E. Capitol Street Ste 500
Jackson, MS 39201

Hon. Alberto Gonzales, Esq.
Attorney General of the United States
5111 Main Justice Building
10th & Constitution Ave. N.W.
Washington, DC 20210

_____
Attorneys for Relators

TRG (8-10-2010) 000158

From: Sid Backstrom
To: Ainsley Perrien
Subject: RE: This is awkward
Date: Tuesday, May 22, 2007 4:36:36 PM

Allen kanner has a qui tam case - whistleblower case seal just got lifted.

Sidney A. Backstrom
Scruggs Law Firm, P.A.
120A Courthouse Square
P.O. Box 1136
Oxford, MS 38655
(p) 662 281 1212
(f) 662 281 1312

-----Original Message-----
From: aperrien@rendon.com [mailto:aperrien@rendon.com]
Sent: Tuesday, May 22, 2007 11:33 AM
To: Sid
Subject: This is awkward

But what case was he saying the speaker phone didn't help..sounded like pekan case and who was the nola lawyer? Tz Sent via BlackBerry from Cingular Wireless

From:	Joel Feyerherm
To:	John Rendon
Cc:	Ainsley Perrien
Subject:	FW: Allstate Subpoenas
Date:	Thursday, May 24, 2007 2:26:25 PM
Attachments:	allstate subpoena articles.doc

John,

Ainsley asked me to send the e-mail below and attachment for you to look at before your meeting.

She also wanted to mention that the lawyer involved in the Qui Tam case in Louisiana is Allen Canner.

Joel

--

------ Forwarded Message
From: Joel Feyerherm <jfeyerherm@rendon.com>
Date: Mon, 21 May 2007 11:33:09 -0400
To: John Rendon <jrendon@rendon.com>
Cc: Ainsley Perrien <aperrien@rendon.com>
Conversation: Allstate Subpoenas
Subject: Allstate Subpoenas

John,

You may have seen in the Alerts from Friday that a grand jury in the US District Court in Southern Mississippi (ie, where Senter is based) has issued a subpoena for Allstate documents relating to the handling of claims following Katrina. The stories say that Allstate is cooperating with the US Attorney.

On May 3, the AP reported that the Department of Homeland Security subpoenaed documents from Allstate as part of its investigation of the administration of National Flood Insurance Program claims. This was following pressure from Congress especially Rep. Gene Taylor.

These articles are in the attachment.

Interestingly enough, the US Attorney for Southern Mississippi is Dunn Lampton, who, it was reported, was on the Justice Department's list of US Attorneys to be fired. An article on this is in the attached.

Do you have any thoughts on people we could speak to who could help us get more than what's being reported?

I'm thinking that Allstate should be more afraid of the US Attorney than DHS. DHS is responding to a Congressional call for an inquiry of how NFIP claims are handled, and I'm wondering if they can get away with a cursory review just to say they've done it. Or perhaps they've pressured the US Attorney to pick up the ball and run with it...?

See also Rebecca Mobray's article today about how Allstate adjusters were inflating costs of flood damage.

Any thoughts for SKG tactics?

Cheers,

Joel

--

------ End of Forwarded Message

From:	Ainsley Perrien
To:	John Rendon
Subject:	reaching out
Date:	Tuesday, May 29, 2007 10:19:00 AM
Attachments:	allstate subpoena articles.doc Longtime afp items on insurers.doc

---

Hi -- trust you are back and well?

I spoke to Dick just as he was leaving Bali.

He is not sure about the 10th. Allstate mediations (about 20 cases) are scheduled to begin on the 11th and if that happens Dick can't see us on the 10th. ..settlement efforts are underway. (Joel wrote an email over the weekend about these mediations but he doesn't have the knowledge that we are trying to settle right now.) We'll know more later in the week and I will let you know asap. Dick again said he'd love to see you.

I mentioned to the client that we were reaching out to the Hill and other DC resources and he was very pleased. Any insights we can provide would be helpful. Joel and I have both written to you about this..just to recap.

Basically we want to find out (if possible from DHS and Justice) what is the story behind the subpoenas and who else is getting them (two companies have said in SEC filings they have received subpoenas _Allstate and Nationwide. Who else and what is the status? Do they have more information, is this a fishing expedition, is it just about the flood program being used to pay what should be legitimate wind claims? How upset is the committee? Is this a real or cursory investigation? Any key witnesses? And that famous question, "What do they hope to gain by doing this?" That sort of thing.

Is the DHS inquiry just to appease the Hill or is there more to it? Can we find out more about the DOJ inquiry (grand jury in so district of MS)?

Remember I mentioned the seal being lifted in a qui tam case (whistleblower) the New Orleans attorney is Allen Kanner. We are also wondering if there is anything more we can find out _ if this relates to any of the subpoenas or the DOJ investigation. Do you recall our conversation in the office about this? Becky Mowbray was writing a piece about this for the Times Picayune. I don't see it...just wrote and asked her if she read it.

thanks.

From: Ainsley Pierian
To: John Bandon
Subject: One idea
Date: Tuesday, June 05, 2007 7:00:38 AM

Hi perhaps you're not squirreled away yet. One idea I had w/Dick to ask you about was __ we were talking about how katrina took the veneer off the admin's image and showed vunerability on a bunch of levels. I said I am amazed the Dems haven't had someone point their fingers and say how dare you.....not fix this mess_ the landscape, the courts, insurance's big business attitude, the flood program debacle etc _ and we thought maybe part of the debates , a few minutes, could be about katrina and the current state of affairs. You think we could discuss?

Also we need to reach out to DHS and Justice about their investigations (he is going to New Orleans tomorrow to discuss w/Kanner the suit where the seal was lifted). But SKG has asked DOJ to lift their seal (rigsby case filed in april 2006) and they are waiting to see doj's reaction due to their investigation_thats why he like us to check around.

They liked the blog and now we are working on editorials. See from alerts SF making all this political and about trial lawyers (which the northern part of the state hates)

Can we try to get public figures to comment on the state of affairs? Dick has spoken to Dean and to McCain. The 3 of them would be an interesting dinner.

Best _ ainsley
Sent via BlackBerry from Cingular Wireless

From:	Sid Backstrom
To:	[illegible]
Cc:	[illegible]
Subject:	RE: Activity in Case 1:06-cv-00433-LTS-RHW Rigsby et al v. State Farm Insurance Company et al Remark
Date:	Monday, August 06, 2007 2:18:29 PM

I think we should not at this point.

From: Meg McAlister [mailto:McAlister@davidnutt.com]
Sent: Monday, August 06, 2007 11:44 AM
To: Sid Backstrom; Derek Wyatt; zach scruggs; Richard R. Barrett ; Marshall H. Smith, Jr.
Cc: Ainsley Perrien; Don Barrett; Humphreys Mcgee; Harry Rayburn; Chris Robertson; David Shelton; Chip Robertson; tgraves@gravesbartlemarcus.com; marywinter@earthlink.net; Dewitt Lovelace
Subject: RE: Activity in Case 1:06-cv-00433-LTS-RHW Rigsby et al v. State Farm Insurance Company et al Remark

Sid, should the SKG attorneys now enter an appearance in the case? I want to be added to the ECF list so I can monitor activity. Please advise.

Meg

Mary E. McAlister, Esq.
David Nutt & Associates
605 Crescent Blvd., Suite 200
Ridgeland, MS 39157

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From: Sid Backstrom [mailto:sidbackstrom@scruggsfirm.com]
Sent: Monday, August 06, 2007 11:26 AM
To: Derek Wyatt; 'zach scruggs'; 'Richard R. Barrett '; 'Marshall H. Smith, Jr.'
Cc: 'Ainsley Perrien'; Meg McAlister; 'Don Barrett'; 'Humphreys Mcgee'; 'Harry Rayburn'; 'Chris Robertson'; 'David Shelton'; 'Chip Robertson'; tgraves@gravesbartlemarcus.com; marywinter@earthlink.net
Subject: RE: Activity in Case 1:06-cv-00433-LTS-RHW Rigsby et al v. State Farm Insurance Company et al Remark

As a Darn good one. This is SF's first knowledge of this case. AND It will help us in ALA where the Judge didn't really know about it because we couldn't tell him.

From: Derek Wyatt [mailto:dwyatt@davidnutt.com]
Sent: Monday, August 06, 2007 11:16 AM
To: Sid Backstrom; zach scruggs; Richard R. Barrett ; Marshall H. Smith, Jr.
Cc: Ainsley Perrien; Meg McAlister; Don Barrett; Humphreys Mcgee; Harry Rayburn; Chris Robertson; David Shelton; Chip Robertson; tgraves@gravesbartlemarcus.com; marywinter@earthlink.net

Subject: RE: Activity in Case 1:06-cv-00433-LTS-RHW Rigsby et al v. State Farm Insurance Company et al Remark

How are we to read this event?

Derek A. Wyatt
Nutt & McAlister, P.L.L.C.
605 Crescent Blvd., Suite 200
Ridgeland, MS 39157
601.898.7302 telephone
601.954.1140 cell
601.898.7304 fax
dwyatt@davidnutt.com

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From: Sid Backstrom [mailto:sidbackstrom@scruggsfirm.com]
Sent: Monday, August 06, 2007 11:14 AM
To: 'zach scruggs'; 'Richard R. Barrett '; 'Marshall H. Smith, Jr.'
Cc: Ainsley Perrien; Derek Wyatt; Meg McAlister; 'Don Barrett'; 'Humphreys Mcgee'; 'Harry Rayburn'; 'Chris Robertson'; 'David Shelton'; 'Chip Robertson'; tgraves@gravesbartlemarcus.com; marywinter@earthlink.net
Subject: FW: Activity in Case 1:06-cv-00433-LTS-RHW Rigsby et al v. State Farm Insurance Company et al Remark

POW! This is the Qui Tam!

From: cmecfhelpdesk@mssd.uscourts.gov [mailto:cmecfhelpdesk@mssd.uscourts.gov]
Sent: Monday, August 06, 2007 11:07 AM
To: Courtmail@mssd.uscourts.gov
Subject: Activity in Case 1:06-cv-00433-LTS-RHW Rigsby et al v. State Farm Insurance Company et al Remark

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U.S. District Court

Southern District of Mississippi

Notice of Electronic Filing

The following transaction was entered on 8/6/2007 at 11:06 AM CDT and filed on 8/6/2007
Case Name: Rigsby et al v. State Farm Insurance Company et al

Case Number: 1:06-cv-433
Filer:
Document Number: No document attached

Docket Text:
Remark: Case unsealed per order granting motion to lift the seal, filed on 8/1/07. (RLW)

1:06-cv-433 Notice has been electronically mailed to:

Felicia C. Adams felicia.adams@usdoj.gov

Richard F Scruggs dickscruggs@scruggsfirm.com, bethjones@scruggsfirm.com, lindahollowell@scruggsfirm.com, sbackstrom@scruggsfirm.com

1:06-cv-433 Notice has been delivered by other means to:

From: Ainsley Perrien
To: Taylor, William W.
Subject: RE:
Date: Monday, October 01, 2007 7:38:00 PM

---

thanks...yes. good luck in those two weeks. and by the way -- well done with Carrie, hoping you'd follow up. Bravo.

From: Taylor, William W. [mailto:wwtaylor@zuckerman.com]
Sent: Monday, October 01, 2007 7:37 PM
To: Ainsley Perrien
Subject: RE:

Going to be away for almost two weeks...How about the nineteenth.

ZUCKERMAN SPAEDER LLP
William W. Taylor
wwtaylor@zuckerman.com

1800 M STREET, NW • SUITE 1000 • WASHINGTON, DC 20036-5802
202.778.1800 office • 202.822.8106 fax

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From: Ainsley Perrien [mailto:aperrien@rendon.com]
Sent: Monday, October 01, 2007 7:35 PM
To: Taylor, William W.
Subject: RE:

lunch me please

From: Taylor, William W. [mailto:wwtaylor@zuckerman.com]
Sent: Monday, October 01, 2007 7:33 PM
To: Ainsley Perrien; Smith, Michael R.
Subject:

Talked to Carrie Johnson at the Post. She is interested in Washing ton angle. Qui tam...flood program. They have a stringer in the south and she has to clear this with him. Please forward to Norm and give me his email.

From: Ainsley Perrien
To: Sid Backstrom
Subject: npr
Date: Tuesday, February 13, 2007 5:18:00 PM

Hi -- I left you a message on your phone. But, are you still willing to do the radio interview next Monday eve? It's from 6-7pm. You'd be on with a Washington Post reporter, Joe Bruno and the Rigsby girls. Strictly talking about "the insurance industry and Katrina" Chelsea from the program PRI - which is Boston-based would like to speak to you thursday/friday about your thoughts and what you'd like to talk about. Are you interested?

What do you think about having the girls on? The producer said she'd like to hear their perspective on the industry's involvement in the rebuilding effort. A whistleblowers perspective, if you will.

I know it's one of those days.

best,
ainsley

From: Ainsley Pardon
To: "jmtaylor@zuckerman.com"
Subject: To do
Date: Monday, October 29, 2007 4:49:14 PM

Hi thanks for lunch. Here is the list:
Talk to John Keker about how much does he want Dick exposed on the Hill in the individual case. Ditto on the qui tam.

Talk to the Post reporter

What dates are you available to go to the Hill?

Ask Mike to write the blurb for Renfroe for the web site.

I will send separate note with letters and filing - mentioned.
Best -- aap

From: Joel Feyerherm
To: Ainsley Perrien
Subject: Re: Blog: Renfroe continues to seek criminal contempt sanction against Scruggs
Date: Tuesday, May 08, 2007 5:07:09 PM

Do we still need something for Cathy Chu?

Maybe:
One-pager of bullets on key points
Quote from Dick

On 5/8/07 10:43 AM, "Ainsley Perrien" <aperrien@rendon.com> wrote:

> It's called whistleblowing for a reason.
>
> we want to come up with a package on this for Cathy Chu of USA Today to see if we can get her to write about this.
>
> **From:** Joel Feyerherm
> **Sent:** Tuesday, May 08, 2007 10:13 AM
> **To:** Ainsley Perrien
> **Subject:** Re: Blog: Renfroe continues to seek criminal contempt sanction against Scruggs
>
> Yep. I think a possible point to focus on for the billboard in Birmingham AL would be around the fact that confidentiality clauses don't apply to illegal behavior. But in punchier words.
>
> On 5/8/07 9:59 AM, "Ainsley Perrien" <aperrien@rendon.com> wrote:
>
> > this is always good for you to know about.
> >
> > **From:** Alert Desk
> > **Sent:** Tuesday, May 08, 2007 8:37 AM
> > **To:** Ainsley Perrien
> > **Subject:** Blog: Renfroe continues to seek criminal contempt sanction against Scruggs
> >
> > Blog: Renfroe continues to seek criminal contempt sanction against Scruggs
> >
> > Media: Insurance Law Blog
> > Byline: David Rosamiller
> > Date: 08 May 2007
> > http://www.insurancecoverageblog.com/archives/industry-developments-renfroe-continues-to-seek-criminal-contempt-sanction-against-scruggs.html
> >
> > You may recall the lawsuit by E.A. Renfroe & Co., a business that assists State Farm in claims adjustment and processing, against the "whistleblower" Rigsby sisters, Cori and Kerri. The two were employed by Renfroe and copied either 5,000 or 15,000 pages of documents – they have given varying accounts during the litigation – and then gave them to policyholder attorney Dickie Scruggs, who hired them to one-year consultant contracts at $150,000 each. These documents purportedly show nefarious claims adjusting procedures by State Farm in Katrina cases.
> >
> > The two had signed confidentiality agreements with Renfroe, as you would expect in jobs with

access to a lot of people's sensitive claims data, and Renfroe sued them for allegedly breaching these agreements. I don't know all the facts of this case, but from a distance, taking 5,000 to 15,000 pages of documents from your employer and turning them over to a lawyer suing State Farm so he can use them to sue State Farm arguably even better, and netting 150 large to boot, presents a fairly compelling argument for breach of confidentiality. As I've written about before <http://www.insurancecoverageblog.com/archives/industry-developments-hearing-to-be-held-to-see-if-whistleblower-rigsby-sisters-scruggs-law-group-should-be-held-in-contempt.html> , Renfroe has also sought a contempt sanction against Dickie Scruggs for allegedly violating a court order requiring him to return the documents and not to make use of them. In a show cause hearing in March (a show cause hearing requires one to show cause why he should not be held in contempt, or otherwise sanctioned, or whatever), it looked as though federal district court Judge William Acker was not inclined to consider criminal contempt as a sanction, although it appeared he was taking a hard look at civil contempt. He asked Renfroe to give some intense thought to whether it wants to pursue criminal contempt.

Well, Renfroe thought it over, and Renfroe is not backing down. I looked at the docket for this case yesterday, and here is a pdf of Renfroe's brief in support of its motion to hold Scruggs in criminal contempt
<http://www.insurancecoverageblog.com/Rigsby,%20Renfroe%20brief%20I.pdf> , filed about a week ago. Then on Friday, Renfroe filed a supplemental brief
<http://www.insurancecoverageblog.com/Rigsby,%20Renfroe%20brief.pdf> , saying it had just found new evidence of a violation of the injunction, namely an ad the Scruggs Group has been running featuring Karri Rigsby talking about "changing engineering reports," which Renfroe says amounts to a prohibited use of the documents to drum up more coverage litigation. To me, the first brief seemed stronger than the second.

For those with a strong interest in this story, here's some more pdf's I ripped from the docket.

Judge Acker's protective order
<http://www.insurancecoverageblog.com/Rigsby,%20protective%20order%20re%20Alexia%20King.pdf>
issued preventing State Farm employee Alexia King from being deposed in this case. She has asserted the Fifth Amendment when deposed before, on advice of counsel, and indicated she planned to do so again.

Various documents reflecting a hullabaloo over whether Renfroe could depose some other people who were present when the Rigsby sisters copied the Renfroe documents: a motion to quash
<http://www.insurancecoverageblog.com/Rigsby,%20motion%20to%20quash.pdf>
by the attorney for the Rigsbies (if that is the correct plural); Renfroe's response
<http://www.insurancecoverageblog.com/Rigsby,%20response%20re%20motion%20to%20quash.pdf>
; and Judge Acker's order denying the motion to quash
<http://www.insurancecoverageblog.com/Rigsby,%20order%20denying%20motion%20to%20quash.pdf>

—

You are currently subscribed to alert-scruggs as: aperrien@rendon.com.

From: Ainsley Perrien
To: Martin, Brian
Subject: RE: MS Coast flood insurance
Date: Tuesday, October 09, 2007 11:00:00 AM

---

wow Brian.. guess you nailed that one.

I am very proud of you. (not that that of course matters but still)

ainsley

From: Martin, Brian [mailto:Brian.Martin@mail.house.gov]
Sent: Tuesday, October 09, 2007 11:00 AM
To: kchu@usatoday.com
Cc: Ainsley Perrien
Subject: MS Coast flood insurance

KATHY,

I understand you are investigating whether Mississippi Coast residents are buying more flood insurance after Katrina.

At the time of Katrina, there were 21,593 flood insurance policies in the three coastal counties of Mississippi for a total of $3.2 billion coverage.

As of June 30, 2007, there were 51,924 flood insurance policies in the three coastal counties for $10.2 billion coverage.

http://bsa.nfipstat.com/reports/1011_200706.htm

That is 140% more policies and 224% more coverage.

I hope you will write about the huge increase in flood coverage in Mississippi rather than looking for one or two people who dropped their coverage.

The main problem with flood insurance in coastal Mississippi is that FEMA still has not produced the new Flood Insurance Rate Maps. Their tedious bureaucratic process may not be completed until after almost everything is rebuilt.

Each of the cities and counties eventually increased flood elevations either by adopting the Advisory Base Flood Elevations recommended by FEMA or by simply adding a few feet to the old maps. However, those actions only affect the properties that already were in a 100-year flood zone. Homes that were not in an A or V zone in the old maps, but will be in an A or V zone in the new maps, are still not required to purchase flood insurance for a federally backed mortgage until the new maps are implemented.

I am sure that many people realized they needed flood insurance. However, the increase in flood insurance coverage is largely because it is required for anyone who received SBA or FEMA home repair assistance for flood damage, and because the State of Mississippi required all recipients of Homeowner Assistance Grants, funded by Congress through Community Development Block Grants, to attach covenants to their deeds requiring the property to be covered by flood insurance in perpetuity.

The state's requirement for the homeowner grants followed the lead of Congressman Taylor's bill H.R. 3922 introduced in Sept. 2005. Gene's bill would have funneled disaster assistance through the flood insurance program where an adjustment and claims process already exists. That would have worked

much faster and more efficiently than the LA Road Home and MS Homeowner Grant program. The Taylor bill would have required every recipient to attach a covenant to the deed to maintain flood insurance.

Also, if you want to look into what is wrong with the flood insurance program as a whole, read the recent GAO report that criticized NFIP for lack of oversight of the flood insurance operations of insurance companies.

http://www.gao.gov/new.items/d071078.pdf

In 2006, 84% of NFIP premiums went to pay administrative costs of insurance companies. GAO says it has no idea whether the payments are appropriate because the insurance companies do not have to report the actual administrative and operating costs of their flood business and only a handful of insurers have complied with the regulation requiring independent biennial audits. NFIP pays insurance companies according to formula – predetermined percentages of policies and claims – and does not compare the payments to actual costs or audits.

For Katrina claims, insurers definitely were overpaid. Many, many flood claims were not detailed adjustments where they had to go through the houses estimating how much drywall, how much flooring, how much paint, and estimating contractor costs. The insurance adjuster simply declared the house a total loss due to flooding and handed out checks for $150,000, $200,000, $250,000, or whatever the amount of the policy limits. The companies' processing of the claims was little more than telling NFIP how many hundreds of millions or billions of taxpayer dollars it needed to pay out. Perhaps you could ask the insurance companies how much they spent handling flood claims and how much they received from NFIP

Also, there is plenty of evidence that insurance companies cheated taxpayers by overpaying flood insurance claims. Please look at the qui tam filings in Mississippi and Louisiana and the RICO suit filed by Scruggs. Then try to find out why the Justice Department is not investigating and taking over these cases. Why isn't anyone writing that story?

Brian Martin
Policy Director
Rep. Gene Taylor
2269 Rayburn House Office Building
Washington, DC 20515
202-225-5772

From: Chu, Kathy
To: Martin, Brian
Cc: Ainsley Perrien
Subject: RE: MS Coast flood insurance
Date: Tuesday, October 09, 2007 11:32:37 AM

Brian

You don't have breakouts of new policies purchased in 2006 vs renewed in 2007, do you? Checking with FEMA on all these numbers. This may or may not be more of a Louisiana issue.

Thanks, and take care,

Kathy Chu
Reporter
USA TODAY

From: Martin, Brian [mailto:Brian.Martin@mail.house.gov]
Sent: Tuesday, October 09, 2007 11:00 AM
To: Chu, Kathy
Cc: aperrien@rendon.com
Subject: MS Coast flood insurance

KATHY,

I understand you are investigating whether Mississippi Coast residents are buying more flood insurance after Katrina.

At the time of Katrina, there were 21,593 flood insurance policies in the three coastal counties of Mississippi for a total of $3.2 billion coverage.

As of June 30, 2007, there were 51,924 flood insurance policies in the three coastal counties for $10.2 billion coverage.

http://bsa.nfipstat.com/reports/1011_200706.htm

That is 140% more policies and 224% more coverage.

I hope you will write about the huge increase in flood coverage in Mississippi rather than looking for one or two people who dropped their coverage.

The main problem with flood insurance in coastal Mississippi is that FEMA still has not produced the new Flood Insurance Rate Maps. Their tedious bureaucratic process may not be completed until after almost everything is rebuilt.

Each of the cities and counties eventually increased flood elevations either by adopting the Advisory Base Flood Elevations recommended by FEMA or by simply adding a few feet to the old maps. However, those actions only affect the properties that already were in a 100-year flood zone. Homes that were not in an A or V zone in the old maps, but will be in an A or V zone in the new maps, are still not required to purchase flood insurance for a federally backed mortgage until the new maps are implemented.

I am sure that many people realized they needed flood insurance. However, the increase in flood insurance coverage is largely because it is required for anyone who received SBA or FEMA home repair assistance for flood damage, and because the State of Mississippi required all recipients of Homeowner Assistance Grants, funded by Congress through Community Development Block Grants, to

attach covenants to their deeds requiring the property to be covered by flood insurance in perpetuity.

The state's requirement for the homeowner grants followed the lead of Congressman Taylor's bill H.R. 3922 introduced in Sept. 2005. Gene's bill would have funneled disaster assistance through the flood insurance program where an adjustment and claims process already exists. That would have worked much faster and more efficiently than the LA Road Home and MS Homeowner Grant program. The Taylor bill would have required every recipient to attach a covenant to the deed to maintain flood insurance.

Also, if you want to look into what is wrong with the flood insurance program as a whole, read the recent GAO report that criticized NFIP for lack of oversight of the flood insurance operations of insurance companies.

http://www.gao.gov/new.items/d071078.pdf

In 2006, 64% of NFIP premiums went to pay administrative costs of insurance companies. GAO says it has no idea whether the payments are appropriate because the insurance companies do not have to report the actual administrative and operating costs of their flood business and only a handful of insurers have complied with the regulation requiring independent biennial audits. NFIP pays insurance companies according to formula – predetermined percentages of policies and claims – and does not compare the payments to actual costs or audits.

For Katrina claims, insurers definitely were overpaid. Many, many flood claims were not detailed adjustments where they had to go through the houses estimating how much drywall, how much flooring, how much paint, and estimating contractor costs. The insurance adjuster simply declared the house a total loss due to flooding and handed out checks for $150,000, $200,000, $250,000, or whatever the amount of the policy limits. The companies' processing of the claims was little more than telling NFIP how many hundreds of millions or billions of taxpayer dollars it needed to pay out. Perhaps you could ask the insurance companies how much they spent handling flood claims and how much they received from NFIP.

Also, there is plenty of evidence that insurance companies cheated taxpayers by overpaying flood insurance claims. Please look at the qui tam filings in Mississippi and Louisiana and the RICO suit filed by Scruggs. Then try to find out why the Justice Department is not investigating and taking over these cases. Why isn't anyone writing that story?

Brian Martin
Policy Director
Rep. Gene Taylor
2269 Rayburn House Office Building
Washington, DC 20515
202-225-5772

From: Ainsley Perrien
To: Zach Scruggs
Subject: just so you know
Date: Tuesday, October 09, 2007 8:30:00 PM

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hi -- sorry I didn't get to talk to you. I did have contact with Cathy Chu and hooked her in with Brian Martin of Taylor's office.

I am trying to help her move around the gc. can you please give me a list of places (Scrantons) where she can go and talk to folks. Where is it that Dick likes breakfast? And what was that place near the court where we got the take out and brought back? I want to send her around to places where real people will tell her what is truly going on. and we should dig up a few folks the tuepkers the leonards etc that she can speak to. She is acting me, isn't it better yet? Cathy needs a reality check.

Also check out the website. we are in the midst of launching it. www.scruggskatrinagroup.com are you up for a blog? qui tam is what I'd like you to write about.

off to nyc tomorrow to see the times op-ed folks.

best, ainsley

From:	Zach Scruggs
To:	Ainsley Perrien
Cc:	"Kitty Brown"; "Greg Hawley"
Subject:	FORENSIC EMAILS/CNN PIECE ON NYGYEN
Date:	Monday, May 07, 2007 11:17:31 AM

Ainsley, please get to the Rigsbys' Birmingham lawyers every piece of readily obtainable piece of media on the duplicative Forensic engineering reports/emails that was all over the news 3 weeks ago (AP Kunselman; MPR with Gary Michelle; CNN with Kathleen Koch; Fox news with Shepard Smith). Transcript and video.

Also get transcript/video the Drew Griffin CNN piece on the Nygens and Mullins that ran at the end of May/beginning of June 2006 on Paula Zahn.

Thanks

From:	Ainsley Perrien
To:	Rosenbaum, Jill
Subject:	RE: scruggs/katrina
Date:	Monday, February 12, 2007 3:00:00 PM

Hi thanks -- there is a web site www.scruggskatrinagroup.com that has most all the media coverage and the court docs.

there were 3 components to what I was working on when we last spoke:

1. Settlement for 640 people that were clients of Scruggs that had filed lawsuits against State Farm. They were settled and are currently being paid.
2. The Mississippi AG Hood had a criminal inquiry into State Farms' practices when resolving Katrina claims. That has been closed.
3. A preliminary settlement agreement was presented by Scruggs and State Farm to Federal District Judge Senter in Mississippi about 3 weeks ago.(-this is what I wanted you to look at but it got so crazy because the AG held everything up, it was on life support for weeks) -- This agreement would have allowed thousands of State Farm claims (filed by approx 30,000 insured families etc) to be reevaluated (because SF had used pretty shady protocols at the time) and reopened and new settlement offers made. If the insured didn't like the offer by SF the second time around, the claim would be sent to binding arbitration that would have been court sanctioned. This settlement agreement was to be the template for the other insurance companies to use in Mississippi to resolve the thousands of cases out there bogging down the court system for years to come.

Well we were all very surprised when the judge did not preliminarily approve the agreement and sent it back with questions. We think he doesn't understand the basics of how settlement class action cases unfold. He is 75 and has only heard one class action before (they are rare in Mississippi). Everybody is very frustrated and there is lots of politicking going on between the media, the attorneys and the state, as you can imagine. The judge has called for an open hearing (on Feb 28) in his chambers at the end of next week to hear from all parties and just about anyone else about what to do. Coincidentally the same day, Barney Frank is having hearings (Fellow committee member Cong. Gene Taylor of the gulf coast of Miss -- he and Trent Lott -- were both SF clients that were rejected and settled in the 640 --) about the insurance industry and their handling of Katrina claims. There is a move to revoke the industry's anti-trust exemption etc. These hearings are mostly aimed at State Farm, it appears.

The day before all this (Feb 27) in Birmingham Alabama -- a contempt hearing is taking place against the whistleblowers (the Rigsby sisters) that started all of this against State Farm. The whistle-blowers employer (AE Renfroe) contracted with SF to assess Katrina claims. AE Renfroe sued the whistleblowers for stealing documents etc. As part of the case, the Alabama court (a judge Ackers) has charged the whistleblowers w/contempt for not relinquishing documents to the court -- I think the MS AG has them. Anyway -- the sisters will be asked to testify on Capitol Hill as part of the Barney Frank hearing and will likely become a face for all of this. Brian Ross 20/20 did something on them in Aug. I was wondering if you would be interested in interviewing the whistleblowers? I am working on getting their story out, before the Alabama court date and see the Capitol Hill hearings as the peg. They have not yet been asked to testify, but they will be asked.

Is this more confusing...any interest? Remember my guy Dickie Scruggs (who you can have anytime) has a John Grisham book based on him and he was the Jeffrey Wigand attorney (the Insider) on tobacco. He regards these sisters in the same vein. He wants to help them in the Alabama thing because as he says, "I don't leave bodies on the beach." He is a hoot.

Hope you are well. I am fine, enjoying this work very much.

Best,
Ainsley

om: Rosenbaum, Jill [mailto:RosenbaumJ@cbsnews.com]
Sent: Monday, February 12, 2007 1:58 PM
To: Ainsley Perrien
Subject: RE: scruggs/katrina

Can you give me an idea of what the hearings are about? I thought the settlement was done..so I'm a wee bit confused!

-----Original Message-----
From: Ainsley Perrien [mailto:aperrien@rendon.com]
Sent: Sunday, February 11, 2007 1:00 PM
To: Rosenbaum, Jill
Subject: FW: scruggs/katrina

HI -- Sorry it's taken so long to write -- something finally you may be interested in?

I can tell you all about what is going on behind the scenes on the SF thing if you are interested. Congress is going to have hearings at the end of the month on the same day (Feb 28) the Miss judge is calling all parties to an "open mike forum" in his biloxi courtroom to discuss. And the day before that (Feb 27) the whistleblowers are being called into Alabama court. I can lay this out for you and see if you'd like any interviews. Maybe with the whistleblowers or anybody else?

This is interesting and I need the help.

(the website www.scruggskatrinagroup.com has links to the coverage in the last 6 weeks)

If not, no problem.

Best,
ainsley

From: Ainsley Perrien
To: krigsby111@aol.com
Subject: RE: pictures
Date: Wednesday, March 21, 2007 9:26:00 PM

you are very kind...thank you for writing....

what a couple of days.

I spoke to Joe Rhee today and hopefully he will be back on the coast to see you guys with Brian soon.

best,
ainsley

From: krigsby111@aol.com [mailto:krigsby111@aol.com]
Sent: Wednesday, March 21, 2007 9:02 PM
To: aperrien@rendon.com
Subject: Re: pictures

I think the pictures and the article are both great.

-----Original Message-----
From: aperrien@rendon.com
To: Rigsby8888@aol.com; krigsby111@aol.com
Sent: Tue, 20 Mar 2007 4:13 PM
Subject: pictures

Hi guys, hope today went as well as yesterday. Please click on this link and let me know what you think about the pictures.

Our photos are here:

http://www.scruggskatrinagroup.com/Rigsby_Sisters.asp

On Mar 20, 2007, at 11:34 AM, Ainsley Perrien wrote:

> please send me our best pics (limited I know) of the sisters. sun herald requested them.

AOL now offers free email to everyone. Find out more about what's free from AOL at AOL.com.

Kerri and Cori Rigsby – SKG Website

Kerri Rigsby and Cori Rigsby are sisters who have been very instrumental in bringing to light State Farm's Katrina related transgressions. The two were dispatched as team managers of claims adjusters by the E.A. Renfroe Company to conduct estimates along the Mississippi coast in the aftermath of the Hurricane Katrina. As they visited numerous properties and reviewed many documents they discovered State Farm had instructed engineering firms to alter reports. The sisters believed State Farm ignored or minimized wind damage to avoid payments – the company denies this. Over the course of several months, the sisters amassed thousands of pages of documents related to State Farm's activities.

They presented these documents to the offices of Mississippi Attorney General Jim Hood and U.S. Attorney Dunn Lampton on June 5, 2006. Both offices had ongoing investigations into State Farm's post-Katrina actions. Several weeks later they also handed over a copy of the documents to attorney Richard Scruggs here at the Scruggs Katrina Group. These documents have helped immensely in obtaining proper financial payments for policyholders who were insured by State Farm.

The Rigsby sisters diligent actions were shared with the American public in August 2006 when 20/20 took a look at questionable practices by insurance companies along the Mississippi Coast. During the show, the sisters are quoted, "A lot of people were cheated," and they believed the alteration of documents and engineering reports was 'widespread.' The sisters saw numerous folders and files filled with multiple engineering reports – an uncommon practice. Some of these folders were affixed with notes advising readers not to review the claim any further and also to deny it.

Additionally, the 20/20 program interviewed a couple other people whose experiences back up the Rigsby sisters' claims. State Farm sent a customer two engineering reports which concluded wind damage had occurred. Later, a third report arrived stating the damage was completely due to water – a protocol by which State Farm would not be liable for a single cent. In an interview with an engineer he claims the contents of his report were changed and his signature was signed by someone else. When asked if he had signed the document, he stated "no" – in California, State Farm was accused of numerous "unauthorized signatures" after the Northridge earthquake. The Rigsby sisters claim these incidents were not isolated, but a widespread campaign by State Farm to pressure engineers to issue certain types of reports in an effort to reduce State Farm's financial obligations.

When the 20/20 segment aired, the information the sisters had turned over was being used in a lawsuit brought against State Farm by policyholder Dr. Wesley McFarland. Dr. McFarland's property was the final one the sisters visited before they began gathering papers to document State Farm's actions. Dr. McFarland presented evidence showing wind damage, but State Farm declared the damages to be flood only – thus they wouldn't have to pay anything. Eventually, with the help of the Rigsby sisters actions, he was one of the first denied policyholders to be paid when State Farm settled with the Scruggs Katrina Group this past January.

Today, not everything is good for the sisters as the Renfroe Company fired the them following the broadcast of the 20/20 show. Now, because the sisters saw improprieties and turned over documents supporting these allegations, they are also facing a retaliatory lawsuit from their former employer. The Renfroe's lawsuit, filed in Alabama, accuses the sisters of violating the Alabama Trade Secrets Act and breaching confidentiality agreements with the company. When the lawsuit was filed, the company also requested the return of the documents [redacted]. The company has since requested the sisters AND Scruggs face civil and criminal charges.

These women disclosed information that showed criminal actions and are now facing the wrath of their employer and parties within the insurance industry. Without their help, hundreds of policyholders would have never received the insurance payments they were entitled to. Members of the Mississippi state legislature, recognizing the importance of the sisters' actions, have introduced "Senate Concurrent Resolution 574" to commend the sisters for their actions.

From: Zach Scruggs
To: Ainsley Perrien
Subject: FW: [keyword] - Martindale-Hubbell - Potential Client Inquiry - Found word(s) farm in the HTML body.
Date: Sunday, February 25, 2007 8:36:30 PM

From: melba@melbanewsome.com [mailto:melba@melbanewsome.com]
Sent: Friday, February 16, 2007 2:06 PM
To: Scruggs Firm
Subject: [keyword] Martindale-Hubbell - Potential Client Inquiry - Found word(s) farm in the HTML body.

This inquiry originated from a search on www.lawyers.com

Name:Melba Newsome
City: Charlotte
State: NC

Comments:
Media Request from Glamour Magazine. I am a writer for Glamour Magazine and we would like to do a feature about the State Farm lawsuit and the Rigsby sisters. Can you please contact me as soon as possible at (704) 632-0477. Melba Newsome

Sent by: melba@melbanewsome.com

From: aldewitt
To: Ainsley Perrien
Subject: Washington
Date: Tuesday, November 06, 2007 5:10:06 PM
Importance: High
Sensitivity: Confidential

Ainsley:

I am arriving tonight around 8 at National and going over to The Mayflower for the evening. I am available by phone tonight until around 10. I will be up early tomorrow, around 7, and so I can meet anytime between 7 and 11, which is when Chip is coming in. Chip and I are going to lunch, and then going over to Zuckerman for the afternoon before we go slap Joyce Branda around a little bit.

Here is what I am thinking about for Joe Rhee:

On your last report you profiled these brave whistleblowers who stood up for homeowners who were being screwed.
Now, it's time for the rest of the story.
It's awful that a bunch of residents in the LA and MS areas were screwed in the provision of insurance. And it was good the girls tried to help. But what wasn't known until recently, is that it wasn't just the residents who got hurt.
It was you, the everday, average TV viewing citizen of the US who pays taxes and who supports, through your tax money, the National Flood Insurance Program.
In April 2006 the girls filed a whistleblower action against State Farm asserting they bilked the federal flood insurance program out of billions of dollars.
In August the government met with the relators and learned all the particulars. In late August of 2006, we ran our report.
The whistleblowers, acting under color of federal law, got sued in Alabama. The federal government did nothing. According to their own filings, they did not even investigate the civil claims.
The whistleblowers were charged with contempt for not turning over all their documents. The federal government did nothing.
The whistleblower's attorney, Dick Scruggs, was charged with criminal contempt. The local US Attorney did something: she refused to prosecute. But the federal judge was unsatisfied and appointed Special Prosecutors. But now the government, through the DOJ, did something. They told the "special prosecutors" they could have the private, confidential privileged submissions of Scruggs' team of lawyers to use in their prosecution.
That's right, the government, which has to investigate to determine if it wants to intervene, and that had not done a single thing before August of 2007, suddenly decided in October of 2007 to cooperate with the defendants in the qui tam suit, not with their partners in the qui tam suit.
The DOJ, who should be looking out for all our interests in this case, has instead switched sides and joined with the defendants – something completely unprecedented in FCA actions.

Now, this is not fleshed out as well as I would like to, and I need to put in some time line stuff and some facts, but basically, that's the tack I am going to take with Rhee.

I would appreciate your feedback on this.

t

From: Ainsley Perrien
To: "aldewitt@sprintmail.com"
Subject: Re: the sun herald website
Date: Monday, November 05, 2007 1:43:26 PM

I love you for this. Go wild sir.

----- Original Message -----
From: Anthony L. DeWitt <aldewitt@sprintmail.com>
To: Ainsley Perrien
Sent: Mon Nov 05 13:07:58 2007
Subject: RE: the sun herald website

As you requested I made the call,

I did not talk that long at all

I told Joe Rhee I'd send him stuff

(filtering out the legal fluff)

And by email he will receive

A full discourse, and by your leave

I intend to copy you

Assuming that this works for you.

t

From: Ainsley Perrien [mailto:aperrien@rendon.com]
Sent: Monday, November 05, 2007 10:25 AM
To: Anthony L. DeWitt
Subject: the sun herald website

fyi link is most imp piece

From: Ainsley Perrien
Sent: Sat 11/3/2007 10:22 AM
To: dickscruggs@aol.com; zscruggs@scruggsfirm.com
Cc: dscruggs@aol.com
Subject: the sun herald website

http://www.sunherald.com/201/story/179228.html

Hi Dick,

Well the politics are flying.

Do you want to have SKG release a statement saying something like:

It is tiresome to see Big Insurance continue to distort, deny and try to disqualify every entity and individual that represents the policy holder and the quest for justice.

First they cheated their own customers, who had been devasted by Katrina and the Federal government, who trusted Big Insurance with their checkbook. Then to cover that up they' went after the Rigsby sisters - who uncovered the scam - the attorneys who represent them and the policyholders- Judge Senter, his clerk and now the State Attorney General. The leader of the fight - conviently the weekend before the election.

Never underestimate the wisdom of the voter Mr. Rust (chairman of State Farm.) New York lawyers may be trying to manipulate the court system but it's not going to work. We all know that you put profit before people and you're vindictave to boot.

We will continue to represent and stand next to the families of the Gulf Coast and their representatives with vigor.

From: Anthony L. DeWitt
To: joseph.e.rhee@abc.com
Subject: Per our discussion regarding the Rigsby Sisters
Date: Monday, November 12, 2007 6:46:14 PM

Dear Mr. Rhee:

When the Rigsby girls met with you and Brian in August of 2006 they were under strict orders not to speak of their involvement in United States ex rel. Rigsby v. State Farm, et al. That case, filed under the False Claims Act, alleged that the government had been systematically defrauded of funds in excess of □1 billion by State Farm. The Rigsbys could not speak of their involvement because 31 USC □3□0 requires that the case be filed under seal, and that it remain so until the United States Department of Justice elects to intervene, or not to intervene, in the case.

□our piece focused on the systematic bludgeoning of policy-holders, and made it appear that the girls had acted to protect these vulnerable people from behavior by State Farm that was both criminal and fraudulent. It was a good story, but because of the seal on the underlying False Claims Act case, it was not the whole story. The whole story should be told.

The fact is that long before they began to assist the McIntosh family by revealing that they had been defrauded by duplicate engineering reports, they were assisting the federal government, turning over boatloads of documents and emails, and generally assisting the state and federal law enforcement authorities in their planned prosecution of State Farm. The women filed their case under seal in April 2006, and collected about □,000 documents from State Farm in June 2006, by gathering documents based on which policyholders had engineering reports. They turned these documents over to the government in June, and met with federal prosecutors in August, only days before your report aired.

After your report aired E. A. Renfroe, the company that employed the Rigsbys, fired them. (Our chronology says the 20/20 piece aired on Aug 30 and that Renfroe sent the girls a letter accepting their resignation on 9/1). The sisters have been the subject of civil and criminal contempt motions and citations, have been required to appear and show cause, and retain separate counsel in a suit against them in Alabama□they have paid significant legal fees. And worst of all they have not been able to pursue their False Claims

case because the case has been actively stalled by the Department of Justice.

Unsatisfied that firing the Rigsbys was not punitive enough, E.A. Renfroe sued the them on a series of theories alleging injury and harm, and asked the federal court in Alabama for an injunction. Renfroe didn't sue in Mississippi, where the girls worked and took the documents, but rather in Alabama where they had a tactical advantage. The case was assigned to William Acker, and essentially asked for the girls to turn over all copies of the documents they had taken from State Farm. As crazy as that sounds, Renfroe, who had no independent claim to the documents, was asking for the girls to hand over the evidence of criminal fraud it collected to assist the government, to people who did not own and had no right to the documents. On December 8, 2006, Judge Acker issued a ruling requiring the documents be turned over. The only exception to the requirement was that the documents could be provided to "law enforcement officials at their request."

Two things happened on December 8, 2006. The first in time was the transmission, by my office, of documents to the Department of Justice in what is called an "evidentiary disclosure." This supplemental disclosure provided CD's of the □000 documents obtained by the Rigsbys. Evidentiary disclosures are mandated by the False Claims Act (See 31 USC □ 3□30(2)). The government routinely resists discovery of this information on the theory that it is protected by joint prosecution privilege. See, e.g., ***U.S. ex. Rel. Singh v. Bradford Medical Ctr.***, 200□ WL 1□□6□06 (E. D. Pa.). This information was sent in the morning because we were afraid that the injunction might be so overbroad as to prevent us from turning these documents over to the Department of Justice. Then, the injunction issued, and had the law enforcement carve out. No one in our office thought twice about the effect of the injunction since our turn over of documents was pursuant to statute, and was made to law enforcement (DOJ).

Injunctions are not effective until there is a bond in place. The bond did not get put in place until December 12, 2006.□□□ The Rigsbys had turned over all their documents to the government, and they turned one set over to Dick Scruggs, their lawyer. The Scruggs set revealed the evidence of the fraud. Mississippi Attorney General Jim Hood was conducting a criminal investigation. He asked Scruggs to turn over his set of documents to him. Scruggs did so. In March 200□ Judge Acker found that action – turning over the documents to the Mississippi Attorney General – to be criminally

contemptuous, and ordered Scruggs prosecuted. The referral went to Alice Martin, the U.S. Attorney for Alabama, who after reviewing the charge and the evidence, declined to prosecute. Judge Acker, however, really wanted Scrugg's head on a pike, and ordered purportedly "independent special prosecutors" to undertake prosecution of Scruggs.

While all this was happening, you would expect that the government was seriously pursuing the claims of wrongdoing by the Rigsbys in United States ex rel. Rigsby v. State Farm, et al.: and you would be wrong. Since the April 2006 filing, the government had a sixty-day period to elect to intervene, but as is standard practice asked for a six month extension in June, 2006, and another in December 2006. These delays were ostensibly to permit the United States time to investigate the Rigsby' claims. But in a filing in July 200□ the United States essentially admitted that after 1□ months, the civil side of the Department of Justice had not taken any steps to investigate the Rigsby case.

In May 200□ the DOJ approached the relators (the Rigsbys) and asked to have the civil side of the case "stayed" because of an ongoing criminal investigation. This because information that is obtained through civil discovery or document subpoenas done in the civil case is presumed to be available to the criminal side of DOJ, and the DOJ did not want to turn over documents gathered by the civil side if it pursued criminal prosecution. Relators initially agreed to the stay in a separate filing. But then things got interesting.

A separate group of relators from Louisiana, who had similar luck with DOJ investigation and intervention in their claims, asked the federal judge in Louisiana to lift the seal in their case. The federal judge did so.

Although filed much later than the Rigsby matter, and not being based on insider information, the Branch Consultants LLC case was now out from under seal, and moving forward. But the False Claims Act is a first-to-file statute, and since the Rigsbys were first to file, the law required that the Branch Consultants claims, at least the ones that overlapped the Rigsby claims, be dismissed. The problem was, State Farm did not know about the Rigsby case because it was under seal.

The Rigsbys sought relief from the federal judge in Mississippi and after briefing (where the government essentially admitted it had done nothing in 1□

months), the federal judge lifted the stay in August 200□ The False Claims case was out in the open.

The False Claims Act empowers the citizen to be essentially a private attorney general. If the government does not elect to intervene, and the relator feels strongly, the relator can simply step into the shoes of the government and prosecute the case. When the federal judge unsealed the case, that is precisely what the Rigsbys planned to do. But the judge instead issued a "stay" of discovery and gave the government until January 2008 to intervene. Relators have asked the Court for relief from this order.

Importantly, the False Claims case is filed against State Farm and E. A. Renfroe. The Rigsbys allege a conspiracy between these two entities both in submitting false claims under the National Flood Insurance Program, and in retaliating against the Rigsbys for blowing the whistle. Renfroe is suing the Rigsbys to prevent the evidence of fraud gathered by the Rigsbys from being available to them to prosecute the False Claims Case. And, it was Renfroe who commenced the prosecution of Mr. Scruggs.

That's a lot of history so you can understand the big hook in this story. It seems that the Department of Justice is no longer happy to simply fiddle while Gulfport burns. Rather, on a mere verbal request (i.e., not a subpoena) the Department of Justice was prepared to hand over a privileged evidentiary disclosure of December 8, 2006, to the special prosecutors who are going after Relators counsel (Scruggs). We have prevented that in the short term, but no one knows what might happen if the prosecutors made a proper request. This case, the presents a huge opportunity for the government to take back billions stolen from it, is essentially going nowhere. That is not what the False Claims Act is supposed to be about.

There are really two stories here that need to be told. One is the story of the False Claims Act case and the girls who built that with documents from State Farm, and have paid the price for their advocacy in Alabama. The other story is the ridiculous way the Flood Program works, paying insurers a 3.3□ premium to push off on the flood program damages that the private insurers would have to pay otherwise, while still collecting thousands for adjusting the claim. The flood program is broken, and no one appears interested in fixing it.

I would love to have the opportunity to help you tell the story.

Regards,

Anthony L. DeWitt

From: Ainsley Perrien
To: "aldewitt@sprintmail.com"
Subject: Re: Rigsbys issue rebuttal
Date: Tuesday, April 29, 2008 10:02:03 AM

Please if I can help say the word. I can tell by this that its ok to speak to Rhee. Am having lunch w Bill Taylor today. Anything I can do there? All the best - Go Tony- aap

----- Original Message -----
From: Anthony L. DeWitt <aldewitt@sprintmail.com>
To: Ainsley Perrien
Sent: Tue Apr 29 09:35:55 2008
Subject: RE: Rigsbys issue rebuttal

We smacked em a little. State Farm ought to read the same depositions it quotes. They only read the questions, not the answers.

t

From: Ainsley Perrien [mailto:aperrien@rendon.com]
Sent: Tuesday, April 29, 2008 4:03 AM
To: aldewitt@sprintmail.com
Subject: Fw: Rigsbys issue rebuttal

Go Tony.

----- Original Message -----
From: Alert Desk
To: Ainsley Perrien
Sent: Tue Apr 29 02:50:12 2008
Subject: Rigsbys issue rebuttal

Rigsbys issue rebuttal

Media: Sun Herald
Byline: Michael Newsom
Date: 29 April 2008
http://www.sunherald.com/278/story/520831.html

GULFPORT -- Attorneys for the two women at the center of the State Farm whistleblower lawsuit asserted on Monday their clients did what they thought was right and legally recovered evidence against the company.

Attorneys for Cori and Kerri Rigsby filed a 51-page, 17-point rebuttal in federal court Monday to State Farm's counterclaims the two women conspired with lawyer Dickie Scruggs and other attorneys to steal confidential business records and profit from false charges against the insurer, which has been sued by Scruggs and others after Hurricane Katrina. The company had previously asked that the suit against them be dismissed because they said the Rigsbys don't have the right to sue

because Scruggs offered them consulting fees of $150,000 a year after they were fired from their six-figure jobs in 2006.

The filing Monday is the latest development in a federal lawsuit that charges State Farm defrauded the federal government through a complex scheme by wrongfully denying insurance claims and shifting the burden for the storm's damage to the taxpayer-funded National Flood Insurance Program. But State Farm attorneys have said the suit should be dismissed because they said it's based on false charges. The company is seeking monetary damages.

The Rigsbys first made their allegations public in August 2006. Missouri-based attorney Anthony L. DeWitt, who is among those representing the whistleblowers, said Monday the two were only doing what's right when they reported the alleged offenses.

"They blew the whistle on what they believed was wrongdoing," DeWitt said.

Attorneys for the Rigsbys want the State Farm counterclaim dismissed.

On the charge the two stole confidential information, attorneys for the Rigsbys deny that "information about a criminal enterprise and rampant fraud against the United States taxpayer are in any way commercially sensitive, confidential or private information."

In response to a motion that says the sisters and the attorneys wrongfully gained access to the files, lawyers for the Rigsbys, from the firm Graves Bartle & Marcus, responded strongly. They said the company's attorneys were telling "outright lies" and they represented a "corrupt corporation" and have "little regard for the the truth" or the reputations of those it attacks.

"It is unfortunate but hardly surprising that State Farm would resort to this strategy, given that it faces potential civil liability reaching into the hundreds of millions of dollars and an ongoing criminal investigation regarding the handling of Hurricane Katrina claims," the document said.

"We would suggest that the counsel for the Rigsbys review the contents of the sworn deposition by their own clients," Fraser Engerman, spokesman for State Farm, said in response to the charges.

The Rigsbys' attorneys also assert that every person has the right to communicate information to law enforcement.

The Rigsbys say what they did actually is in keeping with a contract they had signed with State Farm and its vendors that required them to "exercise an undivided loyalty" to State Farm customers and also guides them to act in a "legal and ethical manner," according to the document filed Monday.

Engerman said late Monday the company's legal team was still sifting through the document and deciding what their response will be.

The suit, which is before U.S. District Judge L.T. Senter Jr. in Gulfport, is still in its early stages, as discovery has yet to begin.

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You are currently subscribed to alert-katrina as: aperrien@rendon.com.
To unsubscribe please email alert@rendon.com

From: Joel Feuerherm
To: Ainsley Perrien
Subject: Various thoughts...
Date: Wednesday, May 30, 2007 9:49:58 AM

Ainsley,

Sorry, but I can't remember what your schedule was this week. I don't want to pester you if you're on vacation, but I wanted to touch base before I plunge into anything. I seem to have some time this week.

Here's a few thoughts for blog entries, since we should try to step up the frequency, if Zach is up for it:

1. Ed Rust – we'd done a draft entry on his hypocrisy, but we haven't done anything with it yet. Latest draft is below. Not sure if we want to keep up fighting on the SF/Bloomington front.
2. Allstate's inflated flood claims and subpoenas. Before it fades from media attention, we could cite a few recent articles and echo concerns about conflicts of interest (insurance companies handling NFIP claims)
3. SF's use of puppets to place Letters to Editors in Mississippi newspapers – just a short, light posting
4. The Billboards are very prominent on the main SKG website, but we haven't written about them in the blog. Is this an opportunity to introduce Sid as a guest blog writer?

Speaking of Letters to Editors...

1. I assume that Harry is busy with the Allstate settlement conference, but I'll send him a short prompt on the draft letter re "What a Good Insurance Commissioner should do"
2. I still need to write a Letter regarding consumer protection concerns – eg, manipulative use of legalistic contracts, taking advantage of selling a product people have to buy – let me know if you have any thoughts about placement

Let me know what's up with Treaster. I'd done an outline for a brief on Whistleblowers. I could use comments on that to make sure I'm on the right track, and then I'll put into sentences. Or maybe you just directed him to the blog article, and that has sufficed?

That piece on the Billboards on the home page of the website is great, but maybe we can shorten it soon and put some of the text on a separate page.

Maybe I could do a monthly report summarizing what we've done in May.

Just ideas. Sorry to bombard you!

Joel

Ed Rust's Hollow Rhetoric

It is ironic that State Farm spokesman Fraser Engerman should make malicious accusations about our motives for placing billboards near the State Farm headquarters in Bloomington, Illinois (see story on our website here) [LINK]. The Scrugge Katrina Group consists of 16 lawyers, not one, and we are all fighting not for our own benefit but for the benefit of thousands of people in coastal Mississippi who are still waiting for insurance payments to let them rebuild their homes and move out of their FEMA trailers.

For Engermann to question our motives shows how desperate State Farm must really be. But they cannot hide from the fact that by stonewalling the policyholders of coastal Mississippi, they are pouring more cash into the corporate account and the wallet of CEO Ed Rust Jr. As one of the billboards in Bloomington says, while Mr. Rust got the goldmine, people whose homes were destroyed by Hurricane Katrina got the shaft. [LINK TO WEBSITE]. Mr. Rust pulled down a salary and bonus of $11.66 million last year.

Interestingly, in 2005, Mr. Rust delivered a speech on the topic of business ethics at a business school conference: http://www.aacsb.edu/handouts/CAM05/cam05-orgm.asp
It is bitterly ironic now that he spoke of the value of keeping promises and maintaining the trust of customers, two principles that State Farm has so blatantly violated in its treatment of Katrina victims. Mr. Rust said:

If there's any business where integrity is critical, it's the insurance business. After all, you pay us money--a good deal of money--and we give you a piece of paper with a promise on it. You trust us to have the money to pay your claim when you have one. And you trust us to pay you fairly and to pay you promptly. We need that kind of trust for our system to work. Every misdeed and resulting disclosure damages it.

In the same speech, he professed to have respect for those who bring to light corporate malfeasance:

Certainly we should call attention to those who recognized unethical and illegal behavior and who, instead of turning their heads, raised their hands and spoke up. These people are often labeled as "whistleblower" or "informant" or "star witnesses." Shouldn't they also be respected?

Evidently, given State Farm's attempts to silence the Rigsby sisters, those words spoken in 2005 were completely hollow, an attempt to cover up a corrupt corporate culture by saying the right things. Can we really trust Ed Rust and his company?

–

From: [redacted]
To: [redacted]
Subject: Re: bk Fw: False Claim Act First Amended Complaint
Date: Monday, August 06, 2007 8:09:58 PM

---

thnks. Joe Treaster

****

Get a sneak peek of the all-new AOL at http://discover.aol.com/memed/aolcom30tour

From:	Ainsley Perrien
To:	Jbtreaster@aol.com
Subject:	Re: bk Fw: False Claim Act First Amended Complaint
Date:	Monday, August 06, 2007 8:17:22 PM

Just got back to DC. Good luck down there Joe. Will you please call Dick? If you haven't already.
Thanks-ainsley
------Original Message------
From: Jbtreaster@aol.com
To: aperrien@rendon.com
Sent: Aug 7, 2007 00:09
Subject: Re: bk Fw: False Claim Act First Amended Complaint

thnks. Joe Treaster

****
Get a sneak peek of the all-new AOL at http://discover.aol.com/memed/aolcom30tour

Sent via BlackBerry by AT&T

From: JJtrawler@aol.com
To: Ainsley Perdeo
Subject: Re bk : bk Fw: False Claim Act First Amended Complaint
Date: Monday, August 06, 2007 9:14:59 PM

Ainsley,
I can't phone him today, Monday. I'm still heading for New Orleans. I'll try to catch up with him over the next few days. I left several messages for him over a couple of days a week or so ago and we never connected. Spoke to Zack but never connected with Dick. I've got to focus on New Orleans while I'm in New Orleans. Maybe I'll find a window to phone Dick toward the end of the week. At some point in the evenings I'll run out of people to interview and may be I'll be able to figure out the name of the best independent bookstore in New Orleans and see if they would like to schedule an appearance by me later this summer. Good to hear from you. Best, Joe

****

Get a sneak peek of the all-new AOL at http://discover.aol.com/memed/aolcom30tour

From:	Ainsley Perrien
To:	Jbtreaster@aol.com
Subject:	Re: Re bk : bk Fw: False Claim Act First Amended Complaint
Date:	Monday, August 06, 2007 9:24:13 PM

I will help you with the bookstore okay. Just keep talking to me on email. Ok about Dick. Understood. Sorry we didn't cross paths. I am committed to book help!
Sent via BlackBerry by AT&T

-----Original Message-----
From: Jbtreaster@aol.com

Date: Mon, 6 Aug 2007 21:14:50
To:aperrien@rendon.com
Subject: Re bk : bk Fw: False Claim Act First Amended Complaint

Ainsley,
I can't phone him today, Monday. I'm still heading for New Orleans. I'll try to catch up with him over the next few days. I left several messages for him over a couple of days a week or so ago and we never connected. Spoke to Zack but never connected with Dick. I've got to focus on New Orleans while I'm in New Orleans. Maybe I'll find a window to phone Dick toward the end of the week. At some point in the evenings I'll run out of people to interview and may be I'll be able to figure out the name of the best independent bookstore in New Orleans and see if they would like to schedule an appearance by me later this summer. Good to hear from you. Best, Joe

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From:	Ainsley Perrien
To:	Dick
Subject:	Fw: Re bk : bk Fw: False Claim Act First Amended Complaint
Date:	Monday, August 06, 2007 9:24:38 PM

Fyi re treaster and you. I responded.
Sent via BlackBerry by AT&T

-----Original Message-----
From: Jbtreaster@aol.com

Date: Mon, 6 Aug 2007 21:14:50
To:aperrien@rendon.com
Subject: Re bk : bk Fw: False Claim Act First Amended Complaint

Ainsley,
I can't phone him today, Monday. I'm still heading for New Orleans. I'll try to catch up with him over the next few days. I left several messages for him over a couple of days a week or so ago and we never connected. Spoke to Zack but never connected with Dick. I've got to focus on New Orleans while I'm in New Orleans. Maybe I'll find a window to phone Dick toward the end of the week. At some point in the evenings I'll run out of people to interview and may be I'll be able to figure out the name of the best independent bookstore in New Orleans and see if they would like to schedule an appearance by me later this summer. Good to hear from you. Best, Joe

****
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From: Ainsley Perrien
To: "treastor@nytimes.com"
Subject: Fw: OPINION: Turning the tables
Date: Monday, November 12, 2007 9:10:43 AM

Pls read and call me. 6625282922

----- Original Message -----
From: Alert Desk
To: Ainsley Perrien
Sent: Mon Nov 12 07:23:14 2007
Subject: OPINION: Turning the tables

OPINION: Turning the tables

Media: National Law Journal
Byline: Carolyn Kubota & Angela Machala
Date: 12 November 2007
http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1194516240472

The federal False Claims Act provides a potentially enormous bounty to insiders with knowledge of fraud against the government to come forward. The insider (also called the "relator" or "whistleblower") is authorized to file a complaint on behalf of the United States and to prosecute the claim as a "private attorney general." If the claim is successful, the relator is entitled to as much as 30% of the recovery, including treble damages. Not infrequently, qui tam cases settle or result in judgments exceeding $100 million, making the relators and their attorneys extravagantly wealthy.

Qui tam cases sometimes arise when a "problem" employee of a company doing business with the government concludes, rightly or wrongly, that his employer is defrauding the government. After disclosing the alleged fraud to the government and filing a qui tam complaint against the company, the relator may remain on the job for years while the government investigates the relator's allegations and decides whether to intervene in the case. During that period, the relator enjoys daily opportunities to investigate his or her claim by reviewing and copying confidential and even privileged company documents to which the relator may or may not be allowed access in the course of the job. The relator's attorney may instigate and even direct these investigative efforts.

At this stage of the case, the company is largely powerless to constrain the relator's activities. Employment action against the relator will likely be characterized as retaliatory in the qui tam litigation. Is this as it should be? What if a relator's misappropriation of records is in support of entirely baseless claims or to obtain embarrassing material with which to extort a favorable settlement? Is the relator's attorney justified in directing or assisting the client to engage in what, under other circumstances, would be unlawful actions?

The competing forces underlying these questions converged in U.S. ex rel. Rigsby v. State Farm, pending in Mississippi federal court. [See Page 1.] Relators Kerri and Cori Rigsby worked as claims adjusters for an insurance support services company called E.A. Renfroe & Co. While adjusting claims for State Farm after Hurricane Katrina, the Rigsby sisters claim to have found evidence that State Farm was improperly shifting coverage costs to the federal flood insurance program.

The Rigsbys brought their allegations to a family friend, attorney Richard "Dickie" Scruggs. Scruggs is a successful plaintiffs' attorney with powerful political connections. He is both a friend of, and a major campaign contributor to, Mississippi Attorney General Jim Hood and the brother-in-law of U.S. Senator Trent Lott, R-Miss.

In April 2006, Scruggs filed a qui tam complaint on the Rigsbys' behalf against State Farm. The complaint remained under seal while a U.S. attorney's office in Mississippi investigated the fraud allegations. The Rigsbys remained in their jobs, where they surreptitiously accessed State Farm's computer files and downloaded thousands of pages of documents and provided copies to both Scruggs and the government. When the owners of Renfroe learned that the Rigsby sisters were qui tam relators, they sued the Rigsbys in Alabama federal court for disclosure of confidential information in violation of their employment agreements. Although the federal courts generally disallow such claims, Renfroe's complaint was allowed to proceed because Renfroe was not then a defendant in the qui tam case.

On Dec. 8, 2006, U.S. District Judge William M. Acker Jr. entered a preliminary injunction in the Renfroe case requiring the Rigsbys and their agents to return the State Farm documents. Instead, Scruggs sent the documents to his friend Hood, the Mississippi AG. Renfroe brought civil contempt proceedings against Scruggs, claiming that he had intentionally evaded compliance with the injunction. Acker went further and found probable cause that Scruggs had committed criminal contempt. He referred the contempt case for prosecution to the U.S. attorney for the Northern District of Alabama, who declined to prosecute.

Utilizing an obscure provision of the Federal Code of Criminal Procedure, Acker on July 26, 2007, appointed three private attorneys as special prosecutors to pursue criminal contempt charges against Scruggs on the court's behalf. On Aug. 21, the special prosecutors filed the charges. On Sept. 21, Scruggs moved to dismiss the allegations or appoint new private counsel. Scruggs contends that the three are his longtime legal adversaries whose firm opposes Scruggs in ongoing litigation; hence, they are not "disinterested" or "dispassionate" as the law requires. On Oct. 12, the private prosecutors requested an arraignment.

And so Scruggs now finds himself investigated by private parties acting as government prosecutors who allegedly have a personal axe to grind with him. The irony of this turnabout has not been lost on the qui tam defense bar, whose clients often find themselves in comparable circumstances.

More importantly, the case illustrates the ambiguous line in qui tam cases between blowing the whistle and potentially committing wrongdoing in the interest of blowing the whistle. As "private attorneys general," relators operate in a quasi-law enforcement capacity, enforcing the government's rights against private parties. But traditional law enforcement agents do plenty of things e.g., searches, seizures, detentions and arrests - that are unlawful when conducted by private parties. The basis and scope of a relator's authority to overstep the otherwise applicable bounds of civil or criminal law in pursuing his or her private attorney general role are largely undefined. Relators wielding that ill-defined authority are, by definition, not disinterested and are seldom dispassionate. Qui tam defendants have mostly borne the brunt of that ambiguity. But as Dickie Scruggs has

likely realized, ambiguity can cut both ways.

Carolyn Kubota is a partner, and Angela Machala is a counsel, in the Los Angeles office of O'Melveny & Myers.

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From: Joel Feyerherm
To: Ainsley Perrien
Subject: Something for Cathy Chu
Date: Friday, May 18, 2007 2:10:30 PM
Attachments: Backgrounder whistle & rigsby.doc

Ainsley,

Is this moving in the right direction? (Attached and below)

Did you see the NY Times piece on Grassley and whistleblowers week? We should send this brief to that reporter (Scott Shane), and see if he wants to run a follow-up on the Rigsbys, ie, something to the effect of, "Last week I reported on activities in Washington to celebrate whistleblowers. A lot of famous whistleblowers were there personally, but here are two who weren't allowed to be there..."

Joel

Backgrounder on Rigsby Sisters and Whistleblowing

The fact that this is National Whistleblowers Week has attracted some attention
* Senator Grassley's floor statement
* Event featuring famous whistleblowers, as mentioned in NY Times piece

This is ironic, because...

* Right now, there is a case going on where a large insurance company is persecuting two women who brought to light evidence of fraud and deceit in the assessment of claims following hurricane Katrina.
* The same insurance company was also successful in squelching others (Forensic) who were uneasy with their practices

Cori and Kerri Rigsby:
* Worked for SF adjuster E.A.Renfroe
* Saw corporate pressure being placed on individual adjusters to pay water claims and cover up evidence of wind damage
> * Similar to what we saw in e-mail evidence from Forensic, where SF pressured
> Forensic's engineers to change reports
* Rigsbys took the evidence to law enforcement authorities in Mississippi, where the claims were made
> * Evidence consisted of thousands of documents
> * Delivered to AG Hood

SF went on the attack
* Pursued contempt of court charges
> * against the Rigsbys
> * against Dick Scrugga
* charged Rigsbys for violating confidentiality agreements; however, the law says that confidentiality orders do not prohibit people from reporting fraudulent activities to law enforcement, which is what they did
* SF took the case to Alabama, because the Mississippi court (Judge Senter) was not impressed with SF's handling of claims and they new he would not appreciate their tactics
> * Two states/ two judges... resulted in confusion over jurisdiction
* All this served SF's purpose of delaying progress in the Mississippi cases
* It has also restricted what Rigsbys are allowed to say in other cases

The Rigsbys' ethics, integrity and true grit are what gave everybody the inspiration to take on this fight against the

industry. They gave up their careers when they brought the truth to light. Their dedication and spirit is phenomenal.

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From:	Ainsley Perrien
To:	ainsley6888@aol.com
Subject:	help me on this
Date:	Thursday, May 24, 2007 7:04:00 PM

Hey Cori -- this is the note from a reporter wanting to talk to families who have gone through mediation...

can you help please?

Don't forget my people -- for the mediation story. Thanks for the help!

Laura Hipp
The Clarion-Ledger
601-961-7077

also tomorrow you can all start viewing your depos on that hidden site to see what you want taken off. Bob said they'll be ready. He has been working all this time on it.

From: Ainsley Perrien
To: zachscruggs@scruggsfirm.com
Subject: FW: the sun herald website
Date: Saturday, November 03, 2007 10:43:18 AM

Hi -- My office agrees with you. I was thinking even on the site. Just to respond in some way. I too was glad those letters only showed up on the SH website and the story ran on a saturday.

I have been talking to the Journal Constitution and Wayne to the Clarion Ledger. The message being this is all about the industry is hiding the docs. You think Cathy Chu is ready to write this?

Also Gene March from Univ Alabama is my target to write about the case in Alabama..working on that.

Do you have thoughts about who could pen the editorial that I sent you the other day? We are working on that placement now.

Does Dick know Dick Thornburgh?

Also Grassley's office is moving interested in delving into this. Tony and the DC lawyers are putting together a briefing book for me to drop off on Monday. I would get to leak a letter from Grassley's office.... and you know they (the attorneys) are meeting with DOJ on Wed.

best, ainsley

From: zach scruggs [mailto:zachscruggs@scruggsfirm.com]
Sent: Sat 11/3/2007 10:35 AM
To: Ainsley Perrien
Subject: Re: the sun herald website

Nope don't want to do anything to strengthen a weak saturday story.

We need our own stories as I have advised.

----- Original Message -----
From: Ainsley Perrien <aperrien@rendon.com>
To: zach scruggs
Sent: Sat Nov 03 09:23:41 2007
Subject: the sun herald website

http://www.sunherald.com/201/story/179228.html

Hi Dick,

Well the politics are flying.

Do you want to have SKG release a statement saying something like:

It is tiresome to see Big Insurance continue to distort, deny and try to disqualify every entity and individual that represents the policy holder and the quest for justice.

First they cheated their own customers, who had been devasted by Katrina and the Federal government, who trusted Big Insurance with their checkbook. Then to cover that up they've went after the Rigsby sisters who uncovered the scam the attorneys who represent them and the policyholders- Judge Senter, his clerk and now the State Attorney General. The leader of the fight conviently the weekend before the election.

Never underestimate the wisdom of the voter Mr. Rust (chairman of State Farm.) New York lawyers may be trying to manipulate the court system but it's not going to work. We all know that you put profit before people and you're vindictave to boot.

We will continue to represent and stand next to the families of the Gulf Coast and their representatives with vigor.

From: Ainsley Perrien
To: [redacted]; krigsby111@aol.com
Subject: FW: Media Coverage - Rigsby Girls
Date: Monday, February 19, 2007 7:23:00 PM
Attachments: DSC_0145_edited-1.jpg

Hey guys,

My office is begging for the changes on the wiki page...will you please let me know what was wrong in what we sent? (see email below)

Also look at this:

Ainsley -- Great talking to you! As we discussed, Glamour Magazine wants to include the Rigsby sisters in their June "heroes" issue because of their key role in the Katrine/State Farm story. Please arrange for me to speak with them as soon as possible and let me know when they are available for photos.
Best regards,
Melba Newsome

melba@melbanewsome.com

And:

MSNBC is interested in having you on one of their shows....we've got some traction. We'll see when we can get this done given the legal restrictions.

But I would like to have you both speak briefly to Melba as her story won't come out until June. What do you think?

Wiki please,
Best -- ainsley

-----Original Message-----
From: Robert B. Vanasse [mailto:bvanasse@rendon.com]
Sent: Monday, February 19, 2007 6:55 PM
To: Ainsley Perrien
Cc: Rob Page III
Subject: Re: Media Coverage Rigsby Girls

Where do we stand on the Rigsby "girls" page?

Page III [mailto:rpage@rendon.com]
> Sent: Monday, February 12, 2007 11:26 PM
> To: Ainsley Perrien
> Subject: Media Coverage Rigsby Girls
>
> Ainsley,
>
> Please see attached for media coverage of the Rigsby Girls since
> August of 2006.
>
> Cheers,
> Rob
> <070212-RigsbyMediaCoverage.doc>

From: Ainsley Perrien
To: "zachscruggs@scruggsfirm.com"
Subject: Re: OPINION: Turning the tables
Date: Monday, November 12, 2007 10:28:15 AM

I just spoke to mike kunzleman. Fyi. Anytime there are events that hurt or help I should hear. You guys are so buried its hard to do that.

We agreed internally at trg to start a new blog question is do we affiliate the site w it? Only you guys can answer that. The blog gets pushed to every reporter covering this it is better than a press release. I am pusing that button now.

I have left mssgs for chu, treaster, rhee and will send mike some stuff we sent to rhee showing the qui tam is the story here and ala is distorting that. That has to be our message.

Listen the opposition is winning if we are argueing and disorganized. Stay w me on this.

And pls help answer my questions.

Ainsley

----- Original Message -----
From: Zach Scruggs <zachscruggs@scruggsfirm.com>
To: Ainsley Perrien
Sent: Mon Nov 12 10:15:44 2007
Subject: RE: OPINION: Turning the tables

Thanks Ainsley, but what details do you possibly need? You should know whats going on and the general issues involved over the past year and I don't think you need to talk to us everyday about it do you. If there are specific details about something you need to know that you don't already know before meeting with someone of import call or email me and I will promptly answer them.

Am I missing something?

From: Ainsley Perrien [mailto:aperrien@rendon.com]
Sent: Monday, November 12, 2007 7:40 AM
To: zachscruggs@scruggsfirm.com
Subject: Re: OPINION: Turning the tables

Zach I am sorry you are angry. We have been in touch w rhee and tony and I were just working on this. In fact I was writing to tony when you were writing to me.

I agree about ap and rosmiller. I hope you gave mike a hard time about that. I certainly did to ap.

The editorials are coming. Its not that fast a process

If you would make the time to give me details it would help. I talk to wayne to find out what's going on. The Lee Harrell depo is an example and the campaign contributions from"unknown occupation" but really insiders that we can use.

I have a meeting wed w the nyt bureau chief this week and the birmingham news dc person. Some of the big subjects that are coming up I have to talk to you guys about what is going on before I can talk to media. The Minor stuff, the harpers piece etc. We were just meeting friday and saturday in my office over the rosmiller blogger issue and decided to implement our own person to go after him. Once ap started quoting him I hit the roof.

As far as your blog I know you gave up on that. It was and is atrue opportunity to have our message out. Would you be willing to have us put another blogger on the site that wasn't you but very aggressive like rosmiller w our side of the story? We could do that today.

All fall I have been trying to talk to Dick to do this stuff and can't get him to talk to me. I can't put stuff out there without you all clearing up some of the issues about what is really going on inside these cases.

The reason the hill is so important is that it gives the press angles to go after that take the story to the injustice of it all. Besides pressuring doj to act.

I am keenly aware how aggressive sf has been don's letter, dale's office role in trying to get the docs and harrell's depo to start w.

I will call later

----- Original Message -----
From: Zach Scruggs <zachscruggs@scruggsfirm.com>
To: Ainsley Perrien
Sent: Mon Nov 12 08:12:15 2007
Subject: FW: OPINION: Turning the tables

Ainsley,

This is getting ridiculous and is going to stop.

How is it that the industry is getting any article it wants in any journal it wants misrepresenting ... everything and making it look like we are criminals, and we have ... nothing. This one was written by 2 partners at a big defense firm whose firm is lead counsel for the welding industry in the welding rod mdl who we are in open war with.

Lets recap:

(1)No article in this journal or any journal from any legal experts praising us or the whistleblowers and talking about how the FCA is being turned on its head.

(2) No response to Rossmiller, whose well timed blogs immediately "coincindentially" coincide with these kinds of articles. His blogs don't bother me but now AP quotes him as some kind of legal expert on us and Mississippi litigation for god's sake. And no, self serving blogs by me are not a counter to this and no it would only hurt more if I started taking this guy on in blogs and would be a huge distraction, we need someone else (a lawyer)who dedicates his life to attacking Rossmiller's blogs on us. We need a legal expert on our side who the press can go to for a quick comment about what is happening to us.

(3) No national or local news programs on the persecution in Alabama. Where is 20/20?

(4) No editorials.

WE NEED TO HEAR FROM YOU A CONCRETE PLAN READY FOR IMMEDEATE IMPELEMENTATION ON HOW ALL 4 THINGS I LISTED ABOVE CAN BE REVERSED.

We are extremely frustrated on how this is turning out.

-----Original Message-----
From: Alert Scruggs Katrina Group [mailto:alert@rendon.com]
Sent: Monday, November 12, 2007 6:23 AM
To: zachscruggs@scruggsfirm.com
Subject: OPINION: Turning the tables

OPINION: Turning the tables

Media: National Law Journal
Byline: Carolyn Kubota & Angela Machala
Date: 12 November 2007
http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1194516240472

The federal False Claims Act provides a potentially enormous bounty to insiders with knowledge of fraud against the government to come forward. The insider (also called the "relator" or "whistleblower") is authorized to file a complaint on behalf of the United States and to prosecute the claim as a "private attorney general." If the claim is successful, the relator is entitled to as much as 30% of the recovery, including treble damages. Not infrequently, qui tam cases settle or result in judgments exceeding $100 million, making the relators and their attorneys extravagantly wealthy.

Qui tam cases sometimes arise when a "problem" employee of a company doing business with the government concludes, rightly or wrongly, that his employer is defrauding the government. After disclosing the alleged fraud to the government and filing a qui tam complaint against the company, the relator may remain on the job for years while the government investigates the relator's allegations and decides whether to intervene in the case. During that period, the relator enjoys daily opportunities to investigate his or her claim by reviewing and copying confidential and even privileged company documents to which the relator may or may not be allowed access in the course of the job. The relator's attorney may instigate and even direct these investigative efforts.

At this stage of the case, the company is largely powerless to constrain the relator's activities. Employment action against the relator will likely be characterized as retaliatory in the qui tam litigation. Is this as it should be? What if a relator's misappropriation of records is in support of entirely baseless claims or to obtain embarrassing material with which to extort a favorable settlement? Is the relator's attorney justified in directing or assisting the client to engage in what, under other circumstances, would be unlawful actions?

The competing forces underlying these questions converged in U.S. ex rel. Rigsby v. State Farm, pending in Mississippi federal court. [See Page 1.] Relators Kerri and Cori Rigsby worked as claims adjusters for an insurance support services company called E.A. Renfroe & Co. While adjusting claims for State Farm after Hurricane Katrina, the Rigsby sisters claim to have found evidence that State Farm was improperly

shifting coverage costs to the federal flood insurance program.

The Rigsbys brought their allegations to a family friend, attorney Richard "Dickie" Scruggs. Scruggs is a successful plaintiffs' attorney with powerful political connections. He is both a friend of, and a major campaign contributor to, Mississippi Attorney General Jim Hood and the brother-in-law of U.S. Senator Trent Lott, R-Miss.

In April 2006, Scruggs filed a qui tam complaint on the Rigsbys' behalf against State Farm. The complaint remained under seal while a U.S. attorney's office in Mississippi investigated the fraud allegations. The Rigsbys remained in their jobs, where they surreptitiously accessed State Farm's computer files and downloaded thousands of pages of documents and provided copies to both Scruggs and the government. When the owners of Renfroe learned that the Rigsby sisters were qui tam relators, they sued the Rigsbys in Alabama federal court for disclosure of confidential information in violation of their employment agreements. Although the federal courts generally disallow such claims, Renfroe's complaint was allowed to proceed because Renfroe was not then a defendant in the qui tam case.

On Dec. 8, 2006, U.S. District Judge William M. Acker Jr. entered a preliminary injunction in the Renfroe case requiring the Rigsbys and their agents to return the State Farm documents. Instead, Scruggs sent the documents to his friend Hood, the Mississippi AG. Renfroe brought civil contempt proceedings against Scruggs, claiming that he had intentionally evaded compliance with the injunction. Acker went further and found probable cause that Scruggs had committed criminal contempt. He referred the contempt case for prosecution to the U.S. attorney for the Northern District of Alabama, who declined to prosecute.

Utilizing an obscure provision of the Federal Code of Criminal Procedure, Acker on July 26, 2007, appointed three private attorneys as special prosecutors to pursue criminal contempt charges against Scruggs on the court's behalf. On Aug. 21, the special prosecutors filed the charges. On Sept. 21, Scruggs moved to dismiss the allegations or appoint new private counsel. Scruggs contends that the three are his longtime legal adversaries whose firm opposes Scruggs in ongoing litigation; hence, they are not "disinterested" or "dispassionate" as the law requires. On Oct. 12, the private prosecutors requested an arraignment.

And so Scruggs now finds himself investigated by private parties acting as government prosecutors who allegedly have a personal axe to grind with him. The irony of this turnabout has not been lost on the qui tam defense bar, whose clients often find themselves in comparable circumstances.

More importantly, the case illustrates the ambiguous line in qui tam cases between blowing the whistle and potentially committing wrongdoing in the interest of blowing the whistle. As "private attorneys general," relators operate in a quasi-law enforcement capacity, enforcing the government's rights against private parties. But traditional law enforcement agents do plenty of things - e.g., searches, seizures, detentions and arrests - that are unlawful when conducted by private parties. The basis and scope of a relator's authority to overstep the otherwise applicable bounds of civil or criminal law in pursuing his or her private attorney general role are largely undefined. Relators wielding that ill-defined authority are, by definition, not disinterested and are seldom dispassionate. Qui tam defendants have

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Carolyn Kubota is a partner, and Angela Machala is a counsel, in the Los Angeles office of O'Melveny & Myers.

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zachscruggs@scruggsfirm.com.
To unsubscribe please email alert@rendon.com

From: Caryn Nesmith
To: Ainsley Perrien
Subject: Re: Latimes reporter
Date: Thursday, November 15, 2007 10:12:49 AM

Doesn't seem like a prick.

He did a long positive feature on trial lawyer in the Broussard case : Jack Denton. (You know him?) Did an interview with Haley Barbour, talked about his DC connections, but not damning.

On Nov 15, 2007, at 9:47 AM, Ainsley Perrien wrote:

> Is he a prick
>
> ----- Original Message -----
> From: Caryn Nesmith
> To: Ainsley Perrien
> Sent: Thu Nov 15 09:42:42 2007
> Subject: Re: Latimes reporter
>
> Ainsley,
>
> Rob sent you a lot of stories by Fausset.
>
> On Nov 15, 2007, at 8:50 AM, Ainsley Perrien wrote:
>
> > Having a bad morning. Fyi
> >
> > ----- Original Message -----
> > From: Ainsley Perrien
> > To: 'wwtaylor@zuckerman.com' <wwtaylor@zuckerman.com>
> > Sent: Thu Nov 15 08:48:15 2007
> > Subject: Latimes reporter
> >
> > Hi. When you have a second. I need your advice. I spoke at length w an la times atlanta reporter (bureau chief). About the alabama matter and tried to explain to him that this was all about the docs staying out of sf's hands cause of the qui tam. By the end of the conversation I realized he was going to quote me and I told him he couldn't. That I wasn't an attorney that this was for his protection too. That I had ideas and thoughts that could help him on the story. But I didn't know the facts. He'd have to go to you or chip or john or dick or sid.
> >
> > I will talk to him again but somehow I have to let those guys (named above) that when they talk to him they have to somehow back me up that I am not qualified to speak on the record on this stuff.
> >
> > I am doing damage control now because the story is in the early stages (sunday/monday) and I think its important to have all of you know I had the conversation. Nothing horrendus was said but I definately shouldn't be quoted, I am sure you agee.
> >
> > Can you help/do you have thoughts? Reporter is richard faussler.
> >
> > So sorry. This was right after you dropped me and the sisters off.

From: Ainsley Perrien
To: Caryn Nesmith
Subject: stop light report
Date: Friday, August 10, 2007 11:09:00 AM

Hi

1. developed election coverage for website
2. monitored election and advised client on public statements and strategies
3. reaching out to attorneys for new representation for whistleblowers
4. strategy and authorship of letter on qui tam case to Senate leadership
5. blog revival strategy
6. new web design for skg site and create web page for firm
7. travelled to New Orleans and spent 2 days with client in court and in the field discussing strategy, public image and election and new court cases
8. briefed staff on status
9. interviewing for researcher
10. assisted in strategy for depositions going on this week
11. working with nyt, new republic and other (miss local) media outlets on katrina coverage and securing skg members to speak with them
12. working on PSA ads and Katrina science dvd for 2nd anniversary
13. working on meeting potential New Orleans clients next week

think that is enough?

From: Zach Scruggs
To: Ainsley Perrien
Subject: FW:
Date: Tuesday, February 20, 2007 4:11:11 PM

Please find more about.

From: krigsby111@aol.com [mailto:krigsby111@aol.com]
Sent: Tuesday, February 20, 2007 2:15 PM
To: Zach Scruggs
Cc: Charlene Bosarge; rigsby8888@aol.com
Subject:

Sara Halasz called from Chicago requesting an interview. It would be for CNBC and would not air until this summer. She would like to start the process in March.

I will notify Ainsley, but would like for you and Dick to make the final decision.

If you would like to get more information from Sara directly, her number is 312-242-6154.

Thank you,
Kerri

Check out the new AOL. Most comprehensive set of free safety and security tools, free access to millions of high-quality videos from across the web, free AOL Mail and more.

From: Ainsley Perrien
To: "chlorob@bellsouth.net"
Subject: 60 min
Date: Tuesday, February 12, 2008 3:25:02 PM

Hi. Hope you don't feel stalked by me. I am going to discreetly drop a set of docs to 60 min while in ny. Anything you want to make sure I include (I know not Beowulf) pls let me know. The angle I am pushing - unless you deter me- is the unchecked targetting and vilification of (you fill in the blank please) by (you fill in the blank please). And that this is a real time, colorful and katrina-related example that illustrates the recklessness of lady justice. I'd love to have them poking around the bloggers, the law clerks, the insurance lobby etc. What do you think? And the qui tam should be in there too. Essentially this is a post-katrina battlefield - show where the guns are pointed and who the winners and losers really are.

Are you going to put my adress in your spam firewall now?

Tx. Aap

From: Ainsley Perrien
To: John Rankin
Subject: Fw: 60 min
Date: Tuesday, February 12, 2008 3:29:30 PM

While driving down the pike I wrote the following (after talking to 60 min).

----- Original Message -----
From: Ainsley Perrien
To: 'chiprob@earthlink.net' <chiprob@earthlink.net>
Sent: Tue Feb 12 15:25:02 2008
Subject: 60 min

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From: Ainsley Perrien
To: "zachscruggs@scruggsfirm.com"
Subject: Re: OPINION: Turning the tables
Date: Monday, November 12, 2007 8:39:42 AM

Zach I am sorry you are angry. We have been in touch w rhee and tony and I were just working on this. In fact I was writing to tony when you were writing to me.

I agree about ap and rosmiller. I hope you gave mike a hard time about that. I certainly did to ap.

The editorials are coming. Its not that fast a process

If you would make the time - to give me details it would help. I talk to wayne to find out what's going on. The Lee Harrell depo is an example and the campaign contributions from"unknown occupation" but really insiders that we can use.

I have a meeting wed w the nyt bureau chief this week and the birmingham news dc person. Some of the big subjects that are coming up I have to talk to you guys about what is going on before I can talk to media. The Minor stuff, the harpers piece etc. We were just meeting friday and saturday in my office over the rosmiller blogger issue and decided to implement our own person to go after him. Once ap started quoting him I hit the roof.

As far as your blog I know you gave up on that. It was and is atrue opportunity to have our message out. Would you be willing to have us put another blogger on the site that wasn't you but very aggressive like rosmiller w our side of the story? We could do that today.

All fall I have been trying to talk to Dick to do this stuff and can't get him to talk to me. I can't put stuff out there without you all clearing up some of the issues about what is really going on inside these cases.

The reason the hill is so important is that it gives the press angles to go after that take the story to the injustice of it all. Besides pressuring doj to act.

I am keenly aware how aggressive sf has been don's letter, dale's office role in trying to get the docs and harrell's depo to start w.

I will call later

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You are currently subscribed to alert-scruggs as:
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To unsubscribe please email alert@rendon.com

From: Ainsley Perrien
To: zachscruggs@scruggsfirm.com
Subject: FW: the sun herald website
Date: Saturday, November 03, 2007 10:43:18 AM

Hi -- My office agrees with you. I was thinking even on the site. Just to respond in some way. I too was glad those letters only showed up on the SH website and the story ran on a saturday.

I have been talking to the Journal Constitution and Wayne to the Clarion Ledger. The message being this is all about the industry is hiding the docs. You think Cathy Chu is ready to write this?

Also Gene March from Univ Alabama is my target to write about the case in Alabama..working on that.

Do you have thoughts about who could pen the editorial that I sent you the other day? We are working on that placement now.

Does Dick know Dick Thornburgh?

Also Grassley's office is moving interested in delving into this. Tony and the DC lawyers are putting together a briefing book for me to drop off on Monday. I would get to leak a letter from Grassley's office.... and you know they (the attorneys) are meeting with DOJ on Wed.

best, ainsley

From: zach scruggs [mailto:zachscruggs@scruggsfirm.com]
Sent: Sat 11/3/2007 10:35 AM
To: Ainsley Perrien
Subject: Re: the sun herald website

Nope don't want to do anything to strengthen a weak saturday story.

We need our own stories as I have advised.

----- Original Message -----
From: Ainsley Perrien <aperrien@rendon.com>
To: zach scruggs
Sent: Sat Nov 03 09:23:41 2007
Subject: the sun herald website

http://www.sunherald.com/201/story/179228.html

Hi Dick,

Well the politics are flying.

Do you want to have SKG release a statement saying something like:

It is tiresome to see Big Insurance continue to distort, deny and try to disqualify every entity and individual that represents the policy holder and the quest for justice.

First they cheated their own customers, who had been devasted by Katrina and the Federal government, who trusted Big Insurance with their checkbook. Then to cover that up they've went after the Rigsby sisters who uncovered the scam the attorneys who represent them and the policyholders- Judge Senter, his clerk and now the State Attorney General. The leader of the fight conviently the weekend before the election.

Never underestimate the wisdom of the voter Mr. Rust (chairman of State Farm.) New York lawyers may be trying to manipulate the court system but it's not going to work. We all know that you put profit before people and you're vindictave to boot.

We will continue to represent and stand next to the families of the Gulf Coast and their representatives with vigor.

From: Ainsley Perrien
To: "adam_zagorin@timemagazine.com"
Subject: Fw: Editorial: "A bizarre tale"
Date: Saturday, October 20, 2007 11:03:26 AM

Hmmm. Pls help w grassley guy. I am now about to see dean zirby over there. I have a qui tam whiz flying in to assist me.

----- Original Message -----
From: Alert Desk
To: Ainsley Perrien
Sent: Sat Oct 20 10:36:59 2007
Subject: Editorial: 'A bizarre tale'

Editorial: 'A bizarre tale'

Media: Alabama Viewpoint
Byline: Bob Martin
Date: 20 October 2007
http://www.clarkecountydemocrat.com/news/2007/1018/Editorial/041.html

In 143 pages of sworn testimony under questioning by Congressional lawyers, both Democrat and Republican, a Rainsville attorney has told a bizarre tale about what she believes to have been a scheme to put former Gov. Don Siegelman in prison.

Dana Jill Simpson, who has been an operative and supporter for Gov. Bob Riley, Judge Roy Moore, both George Bushes, Ronald Reagan and other Republicans. told a story about a plot to "get" Siegelman that she says involved the son of the governor, a former Supreme Court Justice, a powerful business lobbyist, federal prosecutors, a federal judge, the Public Integrity Section of the Justice Department and former White House advisor Karl Rove.

If she had not told this story under oath, questioned by lawyers for both political parties, and facing the possibility of being charged with perjury and losing her license to practice law if she lied, I would not be commenting on the matter.

It was interesting to me that what apparently tweaked Simpson's conscious occurred in the fall of 2006 when a Riley campaign worker wanted her to meet with the governor at a birthday party for him at the home of country musician Randy Owens. She testified that at that time "a disbarred lawyer working in the Riley campaign" and "a guy named Gerald Dial (a former State Senator), asked me to do something I was uncomfortable with."

So Simpson called "Doc" Barron, the brother of State Sen. Lowell Barron, because she said it was something about which "Lowell needed to be aware." Barron then recommended she call Montgomery attorney Joe Espy, who recommended she report what she knew to the State Bar. The Bar recommended that she call Richard Scrushy's lawyer, Art Leach, which she did.

Most of the information about which Simpson testified, came in conversations with Rob Riley, the governor's son, with whom she had a close working relationship. Simpson was what I call "a farm team lawyer," meaning she would refer cases to Riley's Birmingham law firm and earn what is called a "retainer fee."

She produced several exhibits at the hearing, including correspondence from Rob Riley, and records of the 11-minute call at 10:52 a.m. on Nov. 18, 2002 to Rob Riley at which time she said a possible Siegelman concession and withdrawal of his suit challenging the vote count in his loss to Bob Riley was discussed by Rob Riley, former Supreme Court Justice Terry Butts and Bill Canary, president of the Business Council of Alabama and husband of U. S. Attorney Leura Canary. She also identified other phone calls between her and Rob Riley during the 2002 campaign season, and identified a series of letters showing that she has regularly worked on legal matters with Rob Riley since 1998.

Other points

Other points Simpson made in her testimony were:

• that the case against Don Siegelman in the Northern District had been "miserably messed up" by United States Attorney Alice Martin and had been dismissed by a federal Judge in 2004;

• that, with that case out of the way, Siegelman was now "the biggest threat" to Gov. Bob Riley in the coming 2006 governor's race;

• that in late 2004, Canary and Gov Riley had spoken to Karl Rove about Siegelman and that Rove had approached the head of the Public Integrity Section of the Justice Department about bringing another case against Siegelman and giving more resources to the prosecution;

• that the new case against Siegelman would be brought in the Middle District of Alabama and would be assigned to Chief Judge Mark Fuller, whom Rob Riley knew from college;

• that "Fuller would hang Don Siegelman" because he believed Siegelman had caused Fuller to be audited when he was a district attorney, which exposed some questionable financial dealings by Fuller; and

• that Siegelman would be indicted on charges related to Richard Scrushy because Scrushy was very unpopular and it would be useful to link the two men together.

Rob Riley has issued a blanket denial of Simpson's allegations and said he will offer his own selfproduced affidavit to the House Judiciary Committee. Butts has steadfastly denied he was on the telephone conversation in Birmingham.

Simpson has been interviewed by 60 Minutes. CBS tried to interview Siegelman, but were blocked by the government.

Simpson's testimony will be used by the House Judiciary Committee in connection with its broader investigation into suggestions of political prosecutions by the Justice Department and the firing of eight U. S. Attorneys.

Bob Martin is editor and publisher of The Montgomery Independent. E-mail him at:
bob@montgomeryindependent. com

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From: adam_zagorin@timemagazine.com
To: Ainsley Perrien
Subject: RE: Editorial: "A bizarre tale"
Date: Saturday, October 20, 2007 12:50:53 PM

---

okay -- the Grassley guy is named Jason Foster, he is Grassley's top investigator in whom Grassley has a lot
of confidence. This guy has been very helpful to me; he's very smart and experienced and you need to treat him very well. He's
a Christian, somewhat conservative, from Arkansas, but totally non-partisan when it comes whistleblowers, wrongdoing etc.
Pls do NOTNOT give out his phone number to anyone else, ever, not even months or years from now, or pass his name around to other investigators/lawyers etc,

You can reach him on a direct line at 228-5968. You SHOULD use my name, because I did tell him about the situation (quitam etc. //) and he will remember that I told him
someone would be getting in touch. He obviously made no commitment, but said the matter might well be of interest.

I am going to be in NYC and then in Wilmington w/Mary and the fam next week, so you can keep me in the loop
via email or, if necessary, on cell at 202-841-2115.

You should call Jason first thing Monday morning and put him in the loop. I told him, w/out going into details, that you had
whistleblowers in the form of staff for a supposedly independent sub-contractor whose only client is the insurance company.
Tell him that first, right away, and then let the story unfold .

-----Original Message-----
From: Ainsley Perrien [mailto:aperrien@rendon.com]
Sent: Sat 10/20/2007 11:03 AM
To: Zagorin, Adam Time U.S. <adam_zagorin@timemagazine.com>
Subject: Fw: Editorial: 'A bizarre tale'

Hmmm. Pls help w grassley guy. I am now about to see dean zirby over there. I have a qui tam whiz flying in to assist me.

----- Original Message -----
From: Alert Desk
To: Ainsley Perrien
Sent: Sat Oct 20 10:36:59 2007
Subject: Editorial: 'A bizarre tale'

Editorial: 'A bizarre tale'

Media: Alabama Viewpoint
Byline: Bob Martin
Date: 20 October 2007
http://www.clarkecountydemocrat.com/news/2007/1018/Editorial/041.html

In 143 pages of sworn testimony under questioning by Congressional lawyers, both Democrat and Republican, a Rainsville attorney has told a bizarre tale about what she believes to have been a scheme

to put former Gov. Don Siegelman in prison.

Dana Jill Simpson, who has been an operative and supporter for Gov. Bob Riley, Judge Roy Moore, both George Bushes, Ronald Reagan and other Republicans. told a story about a plot to "get" Siegelman that she says involved the son of the governor, a former Supreme Court Justice, a powerful business lobbyist, federal prosecutors, a federal judge, the Public Integrity Section of the Justice Department and former White House advisor Karl Rove.

If she had not told this story under oath, questioned by lawyers for both political parties, and facing the possibility of being charged with perjury and losing her license to practice law if she lied, I would not be commenting on the matter.

It was interesting to me that what apparently tweaked Simpson's conscious occurred in the fall of 2006 when a Riley campaign worker wanted her to meet with the governor at a birthday party for him at the home of country musician Randy Owens. She testified that at that time "a disbarred lawyer working in the Riley campaign" and "a guy named Gerald Dial (a former State Senator), asked me to do something I was uncomfortable with."

So Simpson called "Doc" Barron, the brother of State Sen. Lowell Barron, because she said it was something about which "Lowell needed to be aware." Barron then recommended she call Montgomery attorney Joe Espy, who recommended she report what she knew to the State Bar. The Bar recommended that she call Richard Scrushy's lawyer, Art Leach, which she did.

Most of the information about which Simpson testified, came in conversations with Rob Riley, the governor's son, with whom she had a close working relationship. Simpson was what I call "a farm team lawyer," meaning she would refer cases to Riley's Birmingham law firm and earn what is called a "retainer fee."

She produced several exhibits at the hearing, including correspondence from Rob Riley, and records of the 11-minute call at 10:52 a.m. on Nov. 18, 2002 to Rob Riley at which time she said a possible Siegelman concession and withdrawal of his suit challenging the vote count in his loss to Bob Riley was discussed by Rob Riley, former Supreme Court Justice Terry Butts and Bill Canary, president of the Business Council of Alabama and husband of U. S. Attorney Leura Canary. She also identified other phone calls between her and Rob Riley during the 2002 campaign season, and identified a series of letters showing that she has regularly worked on legal matters with Rob Riley since 1998.

Other points

Other points Simpson made in her testimony were:

that the case against Don Siegelman in the Northern District had been "miserably messed up" by United States Attorney Alice Martin and had been dismissed by a federal Judge in 2004;

that, with that case out of the way, Siegelman was now "the biggest threat" to Gov. Bob Riley in the coming 2006 governor's race;

that in late 2004, Canary and Gov Riley had spoken to Karl Rove about Siegelman and that Rove had approached the head of the Public Integrity Section of the Justice Department about bringing another case against Siegelman and giving more resources to the prosecution;

that the new case against Siegelman would be brought in the Middle District of Alabama and would be assigned to Chief Judge Mark Fuller, whom Rob Riley knew from college;

that "Fuller would hang Don Siegelman" because he believed Siegelman had caused Fuller to be audited when he was a district attorney, which exposed some questionable financial dealings by Fuller; and

that Siegelman would be indicted on charges related to Richard Scrushy because Scrushy was very unpopular and it would be useful to link the two men together.

Rob Riley has issued a blanket denial of Simpson's allegations and said he will offer his own selfproduced affidavit to the House Judiciary Committee. Butts has steadfastly denied he was on the telephone conversation in Birmingham.

Simpson has been interviewed by 60 Minutes. CBS tried to interview Siegelman, but were blocked by the government.

Simpson's testimony will be used by the House Judiciary Committee in connection with its broader investigation into suggestions of political prosecutions by the Justice Department and the firing of eight U. S. Attorneys.

Bob Martin is editor and publisher of The Montgomery Independent. E-mail him at: bob@montgomeryindependent. com

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From: Ainsley Perrien
To: dacruces@acruceslaw.com
Subject: judiciary committe
Date: Thursday, October 11, 2007 9:41:00 AM

Hi -- Sen Biden's office has agreed to put into the questions during next weeks DOJ confirmation hearings a question (written) about the qui tam.

What would you like the question to be?

best, ainsley

From:	Zach Scruggs
To:	Ainsley Perrien
Subject:	FW:
Date:	Sunday, June 03, 2007 11:40:24 AM
Attachments:	Fisher deposition4-24-07.pdx

I am going to send to Rebecca also. These are the 2 reporters who I think are most interested in this issue.

What do you think?

From: zach scruggs [mailto:zachscruggs@scruggsfirm.com]
Sent: Sunday, June 03, 2007 10:37 AM
To: Anita Lee
Cc: zach scruggs
Subject:

Anita,

This is the deposition of Rachel Fisher, a Renfroe adjuster who adjusted Senator Trent Lott's claim and Congressman Gene Taylor's claim. She made a lot of damaging admissions about State Farm: instructing her to pay the flood limits (which as you know is the federal governments money and does not come out of State Farm's pocket or its Homeowners policy) to the Lotts immediately a week and a half after the storm without any investigation or engineering report even though at the time she was not sure what caused the loss and had no weather data; but then State Farm conducted a full investigation and commissioned an engineer AFTER paying the Lott's the flood limits of $350,000 to determine if any of the damage was caused by wind, which of course State Farm determined that there was none. So State Farm did not conduct any investigation into what caused the Lott's loss until its own policy and money was at stake and AFTER it had paid the Lott's $350,000 in federal government money – which it hoped would assuage the Lotts and everyone else on the Coast who didn't know or care where the money was coming from. This compliments Rebecca Mowbray's article about what was going on in Louisiana with Allstate and I thought you would be interested in doing a piece on it.

Fisher also testified that in adjusting claims on the Gulf Coast State Farm construed the ACC clause to deny all slabs claims no matter when the wind came (in blatant violation of Judge Senter's opinions and how State Farm says interpreted the clause to the press). She also testified that State Farm put the burden on the policyholder to prove that their loss was not caused by water – in blatant violation of Mississippi law and Judge Senter's opinions.

I will be forwarding to you excerpts fr[illegible] the depos that say what I just said. I will also be forwarding to you Kerri Rigsbys depo which she say the same thing about the flood program.

Please give me a call to discuss after review.

Zach

Attachment Fisher deposition4-24-07.ptx (111877 Bytes) cannot be converted to PDF format.

From: Zach Scruggs
To: Ainsley Perrien
Subject: FW: EXCERPTS FROM RACHEL FISHER DEPOSITION ON RECEIVING ALL TRAINING ON HOW TO ADJUST FLOOD CLAIMS FROM STATE FARM
Date: Sunday, June 03, 2007 11:56:41 AM

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Q So you're hired on at Renfroe in '98, but Renfroe itself gave you no training on how to adjust claims.
A You were to train with the adjuster as an assistant.
Q Okay. So the training you received in how to adjust claims came from Kerri Rigsby by virtue of the fact that you were her assistant.
A Correct.
Q Okay. Did Renfroe offer any courses on how to adjust certain kind of claims or anything like that?
A During the course of that time, yes.
Q Okay. But would it be fair to say your primary training on how to adjust claims came from working hands on as an assistant to an adjuster?
A Yes.
MS. HELMS: Object to form.
BY MR. SCRUGGS:
Q The answer?
A Yes.
Q Okay. Well, I think you testified that Renfroe offered or gave some courses. Can you tell me about

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those?
A We were given courses on how to work the software programs, Xactimate, for estimating; we were given courses on making sure we knew how to diagram roofs, measure roofs; courses on identification of damages.
Q What do you mean by that, identification of damages?
A What hail damage looks like on a roof, what wind damage looks like on a roof.
Q Let's stick with that for a minute. Renfroe offered courses on various things, how to use certain softwares, estimating softwares, and the last thing you hit on was identification of damage and to determine what wind damage looked like. Is that correct?
A Uh-huh.
Q What about water damage?
A Same.
Q Okay. Tell me about those courses and that instruction on identifying damage, wind and water.
A I don't understand what you're asking me.
Q I'll try to ask it a better way. You had courses on identifying how to identify damage. Tell me about those courses and instruction that you received

from Renfroe.

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A They were instructional classes to -- with photographs, with documentation just so that you would know what was hail damage, what wasn't hail damage, what we -- what they felt like would constitute wind damage on a shingle, if there was flood damage, what to look for.
Q Did Renfroe offer these courses itself or did someone else? Who conducted these courses?
A Usually it was a State Farm training team. Often it would be a Renfroe training team. It -- it could be both.
Q How many of these courses do you remember attending?
A I don't remember.
Q More than one?
A More than one.
Q More than ten?
A I don't remember.
Q Okay. And it's your testimony that either State Farm or Renfroe or a combination of the two would conduct these courses on how to identify what was wind damage and what was water damage.
A Yes.
Q Where did these -- were these -- was this a seminar type class?
A Sometimes it would be a seminar, sometimes it

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would be on the site of the catastrophe training.
Q Were they -- did they give you documents or manuals or anything in these courses to help you -- strike that. I can ask it a better way.
During these instructional courses where you were taught on how to identify wind damage and water damage, did they give you any manuals or pamphlets or instructions?
A Yes.
Q Okay. Do you still have those?
A Probably.
Q Okay. And these would have been informational documents that State Farm would've given you?
MS. HELMS: Object to form.
A I'm trying to remember. If there were things that were given to us, they probably would have come from State Farm.
BY MR. SCRUGGS:
Q And it's your testimony that you still might have some of that material in your possession?
A I may.
Q Okay. Would it be fair to say that the only training you received on how to identify what was wind damage and what was water or flood damage came from these State Farm courses?

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MS. HELMS: Object to --
MR. WELCH: Object to --
MS. HELMS: -- form.
MR. WELCH: -- form.
BY MR. SCRUGGS:
Q You can answer.
MR. WELCH: You can still answer, if you can.
A It would have been those courses and on-the-job training.

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Q Would State Farm have conducted some of these courses?
A State Farm does conduct the flood certification courses.
Q Okay. Have you been to a State Farm flood certification course?
A Yes.
Q Tell me when.
A 2005, 2006, 2007.
Q So the annual convention in Biloxi in March 2005, the annual meeting in I think it was Austin in 2006, and the annual meeting a couple months ago, State Farm sponsors a flood certification class.
A Yes.
Q And you've attended all three of those.
A Yes.

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Q Okay. Correct me if I'm wrong. I think your prior testimony was that at these annual conventions that there would be flood certification classes at these annual conventions, these Renfroe --
A Uh-huh.
Q Okay. Were there also State Farm personnel there that conducted seminars?
A Yes.
Q Tell me who some of these people would've been.
A The flood certification was usually conducted by a State Farm representative with an NFIP person present.
Q Who was the State Farm person that conducted the certification?
A Lecky King twice and Mike Ferrier this past year.
Q When you first were certified in 2005, was it Lecky King that certified you?
A Yes.
Q Okay. Other than the flood certification class, what other seminars would State Farm conduct at

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these conventions?
A We would do roof analysis, sketch programs,

basic estimatics, rope and harness training. Several different variables necessary for adjusting.

Q Okay. Anything related specifically to hurricane claims?

A Wind adjustments.

Q Okay. Well, what -- what training did State Farm personnel give you regarding wind?

A It wouldn't always be State Farm personnel. It might be Hague Engineering, it might be another engineering firm. To determine the difference between what was wind damage primarily, and then we would do our flood certification to determine the flood damage.

Q So --

A We were also given -- there was also -- there's also a component in the flood damage to distinguish between wind and water damages.

Q Who conducted that?

A Whoever was conducting the flood certification. It's built into the flood certification itself.

From: Ainsley Perrien
To: John Brendon; Bryan Rich
Subject: Fw: taylor's office
Date: Wednesday, September 19, 2007 8:28:08 AM
Attachments: HHTG_11.gif
HHTG_11.gif

Norm rules!

----- Original Message -----
From: norm kurz <normkurz@gmail.com>
To: Taylor, William W. <wwtaylor@zuckerman.com>
Cc: Ainsley Perrien; Smith, Michael R. <msmith@zuckerman.com>
Sent: Wed Sep 19 07:38:36 2007
Subject: Re: taylor's office

meeting scheduled for tomorrow, thursday -- precise time still undetermined -- with biden cos alan hoffman...a more favorable meeting is hard to imagine...yes/no?

On 9/18/07, Taylor, William W. <wwtaylor@zuckerman.com> wrote:

Dont do anything until we talk.

William Taylor 202.778.1810 wwtaylor@zuckerman.com
<http://mm1.lettermark.net/zuckerman/card/HHTG_11.map>

From: Ainsley Perrien [mailto:aperrien@brendon.com]
Sent: Tuesday, September 18, 2007 11:36 AM
To: Smith, Michael R.; Taylor, William W.
Cc: norm kurz
Subject: taylor's office

Hi -- Well I got an intro from Zach into Taylor's office. Zach didn't see any reason why I couldn't ask them to put up the docs. There was some discussion of this at some point, Zach said.

Please let me know your thoughts or specific requests pertaining to this opportunity...not that I think it will be anything different than yesterday.

Oh and Zach suggested I contact Dean Zerby on Grassley's staff. -- best ainsley

---

From: Zach Scruggs [mailto:zachscruggs@scruggsfirm.com]
Sent: Tuesday, September 18, 2007 10:45 AM
To: 'Martin, Brian'
Cc: Ainsley Perrien
Subject: Ainsley Perrien

Brian,

Great job on everything Brian. I am really enjoying reading yalls stuff.

I have a favor to ask you. Our consultant Ainsley Perrien works in Washington. Can she come by and talk to you at a convenient time about your bill, yalls investigation, and the Rigsby Girls.

I have copied her on the email.

Thank you in advance and keep up the good work. We are all proud of you and Congressman Taylor.

Zach

From: Ainsley Perrien
To: [redacted]
Subject: judiciary committe
Date: Thursday, October 11, 2007 9:41:00 AM

Hi -- Sen Biden's office has agreed to put into the questions during next weeks DOJ confirmation hearings a question (written) about the qui tam.

What would you like the question to be?

best, ainsley

From:	Smith, Michael R.
To:	Ainsley Perrien
Cc:	Taylor, William W.; Mehta, Amit; Reiser, David A.; Acton, Jason; Roby, Nora
Subject:	RE: Opportunity
Date:	Thursday, October 11, 2007 9:46:14 AM

Ainsley, here's a stab at something. It may be way too long, and I'll leave it to your or yours to re-do it if you want to use the substance of the question. However, you write it, the point I think is to ask why the government won't do something about the State Farm qui tam case, which has been around a year and a half, and, indeed, why the government asked the court, first, not to make it public, and then to stay it.

"In the aftermath of Hurricane Katrina, many fraud schemes have been uncovered. In 2005, the former Attorney General established the Hurricane Katrina Fraud Task Force. Its website lists wide-ranging efforts to go after individuals who have fraudulently obtained government benefits. Like Clarena McGee, a 56-year old lady in Louisiana who fraudulently obtained about $7,000 in unemployment benefits and pleaded guilty a few days ago, on October 3rd. But I want to ask about the Department's response to allegations that the State Farm insurance company defrauded the federal government of hundreds of millions of dollars. There's a case right now in federal court in Mississippi in which two former insurance adjustors for State Farm, Cori and Kerri Rigsby, allege that they uncovered a scheme in which State Farm forced engineers to lie about how homes were damaged -- to falsely say that they were damaged by water and not by wind. The point of the scheme was to make the federal government pay for the damage under the federal flood insurance program and to get State Farm out of paying anything under its insurance policies, which covered only wind damage. The Rigsbys case is a qui tam case under the False Claims Act. They are standing in the shoes of the federal government, suing to recover money for the U.S. Treasury. The law authorizes the Department to get into the case and to help the Rigsbys recover that money. As far as I can tell, neither the Task Force nor any other part of the Department has done anything to help. The Department actually asked the judge in that case not to make it public, but the judge disagreed and did make it public. The Department also asked the judge to stay the case, to hold it up and keep it from going forward, so that the government thinks about whether it wants to get into the case. The Department has been thinking about the case, but doing nothing, since it was filed in April 2006 and since the facts about the fraud were reported on ABC's 20-20 television program in August 2006, both more than a year ago. This suggests that the Department is missing the forest for the trees -- going after little guys who cheat on unemployment while doing nothing about big-time fraud by big-time companies. Can you tell me whether you plan to prompt some action within the Department concerning this type of allegation of serious fraud on the taxpayers by large companies like State Farm?"

From: Ainsley Perrien [mailto:aperrien@rendon.com]
Sent: Wednesday, October 10, 2007 7:23 PM
To: Smith, Michael R.
Subject: Opportunity

Hi we have an opportunity to write a question for the doj confirmation hearings on our matter. What do you suggest the question be? Hope you are well ainsley

ZUCKERMAN SPAEDER LLP

Michael R Smith
msmith@zuckerman.com

1800 M STREET, NW • SUITE 1000 • WASHINGTON, DC 20036-5802
202.778.1800 office • 202.822.8106 fax

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From: norm kurz
To: Ainsley Perrien
Subject: Re: leahy meeting
Date: Sunday, October 14, 2007 10:40:28 PM

>Question:
>
>As everyone knows, Hurricane Katrina devastated the lives of hundreds of thousands of Americans, but what fewer know is that many of the same people continue to be victimized as they try to rebuild their lives. And others have tried to game the system to line their pockets.
>
>In the aftermath of Katrina, for example, DOJ's Hurricane Katrina Fraud Task Force found that Clarena McGee, a 56-year old lady in Louisiana, fraudulently obtained about $7,000 in unemployment benefits. A few days ago, on October 3rd, she pleaded guilty.
>
>But what about the big fish, like State Farm insurance company, which is alleged to have defrauded the federal government out of hundreds of millions of dollars.
>
>There's a case right now in federal court in Mississippi in which two former insurance adjusters for State Farm, Cori and Kerri Rigsby, allege they uncovered a scheme in which State Farm forced engineers to lie about how homes were damaged -- to falsely say they were damaged by water and not by wind. The point of the scheme was to make the federal government pay for the damage under the federal flood insurance program and to get State Farm out of paying anything under its insurance policies, which covered only wind damage.
>
>The Rigsbys case is a qui tam case under the False Claims Act. They are standing in the shoes of the federal government, suing to recover money for the U.S. Treasury. The law authorizes the Department to get into the case and to help the Rigsbys recover that money. Regrettably, it appears the Department has done absolutely nothing to help even though it was filed in April 2006. The facts about the fraud were reported on ABC's 20-20 television program in August 2006.

The Department is missing the forest for the trees -- going after little guys who cheat on unemployment to the tune of a few thousand dollars while doing nothing about big-time fraud by big-time companies.
>
>Can you please tell me whether you plan to prompt some action within the Department concerning this type of allegation of serious fraud on the taxpayers by large companies like State Farm?

On 10/12/07, **Ainsley Perrien** <aperrien@rendon.com > wrote:

Hot diggity dog! Thanks. Good luck w op ed. And may I see your shortened version? Tx

----- Original Message -----
From: norm kurz <normkurz@gmail.com>
To: mssmith@zuckerman.com <mssmith@zuckerman.com>; wwtaylor@zuckerman.com <wwtaylor@zuckerman.com>; Ainsley Perrien
Sent: Fri Oct 12 16:13:12 2007
Subject: leahy meeting

we have a meeting scheduled next friday, oct. 19, at 1:00 pm with Kristine Lucius ("LOO-shus"), one of Chairman Leahy's senior attorneys on the judiciary committee. from our conversation it appears she is sympathetic and knowledgeable; she also indicated she thought leahy would be amenable to the idea of submitting a written question to the AG nominee, whose hearing will take place oct. 17 procedures allow written questions to be submitted up to 7 days following the hearing, so we can come to the meeting with lucius with a version of the question we would like leahy to ask. in a follow up conversation with alan hoffman, biden's cos, he agreed to have biden submit a question as well. knowing that he was likely to want to write the question himself but with some input, i sent him a slightly shortened version of the question from mike and another version from tony as suggested drafts for him to consider, amend, etc. finally, i will finish up an op-ed for all to review, with the thought that a full buy-in by someone like leahy might include willingness to submit an oped. i expect other meetings next week in addition to the one with lucius and will try to schedule them that day as well so we can consolidate. please let me know if the 19th works. thanks, norm

From: Anthony L. DeWitt
To: Ainsley Perrien
Subject: RE: NOMINATION OF MICHAEL MUKASEY TO BE ATTORNEY GENERAL OF THE UNITED STATES;
Date: Monday, October 22, 2007 8:39:45 AM

Some suggestions:

1. Relator's counsel tell me that they view a qui tam case as a government-relator partnership, and that they often work long hours providing additional information, making relators available for interviews, and doing legal research or providing expert analyses for the government. Sometimes, in spite of this, Relators are treated badly in that the government makes no effort to let the relator know what the status is on the case until they need another extension of the seal period. Will you commit to a policy of requiring the US Attorneys working on these cases to provide a summary every three months to the relators counsel of the investigative steps taken and the results obtained?
2. In the past False Claims cases that were not particularly difficult or fact intensive have taken an exceptionally long time to process. In one case it took six years of having the case under seal before the United States made an election to intervene. The recovery to the treasury was 13 Million. (US ex rel. Block v. American Medical Response, S.D. Tx. 2007). Will you commit to shortening the time that it takes to make intervention decisions?
3. In some federal courts (E.D. Mo., and N. D. Ala., as examples) federal judges routinely grant the government one seal extension of six months, and then force the government's hand by mandating a decision by the Department of Justice. In large part these judges do this in order to avoid having cases drag on their docket for six years. Will you commit to educating the judiciary regarding the need for seal extensions in these cases?
4. In many cases the government carries on an investigation that lasts two, and sometimes four years, and then elects not to intervene. Although the DOJ will have received a great deal of help, support, and information from the Relator and his counsel, once the decision not to intervene is made, the government tends to clamp down on the information it used to make its decision, and forces the Relator to make a decision about going forward or dismissing without any information of any kind from the investigation. This not only harms the Relators, it works an injustice on the defendant if the defendant has provided information to the government that indicates that the case does not have merit. Will you commit to sharing information with relators counsel as to the basis of the DOJ's decision, and providing all documents and papers obtained during the investigation that do not violate statutorily protected sources?
5. Relators take great risks in obtaining evidence of fraud. Sometimes the evidence is in claim files, sometimes it is on tabletops, and sometimes it is in file cabinets. As you know, the Act requires the Relator to provide to the government substantially all the evidence in the possession of the relator. Yet, when the relator does so, and the is sued under state trade secret statutes during the time when the case itself remains under seal and cannot be revealed to a state court judge or the defendant. In many of these cases the relator is forced to turn over documents that it may already have turned over to the government. Will you commit to developing a protocol within the DOJ for handling these issues?

These are just what I can think of off the top of my head. I'll work on some more a little later today.

t

From: Ainsley Perrien [mailto:aperrien@rendon.com]
Sent: Saturday, October 20, 2007 4:11 AM
To: Smith, Michael R.; norm kurz
Cc: Anthony L. DeWitt

From: Caryn Nesmith
To: Ainsley Perrien
Subject: Taylor's Rigsbys comments
Date: Wednesday, October 03, 2007 5:21:38 PM

Ainsley,

Regarding on-the-record comments by Gene Taylor's to Congress about the Rigsbys, I found this report--dated Feb 28, 2007-- read to the Financial Services Committee, Subcommittee on Oversight and Investigations:

http://www.policyholdersofamerica.org/pdf_public/CongressmanTaylorsreport.pdf

Taylor urges the committee to launch a full investigation of the fraud against taxpayers and consumers so that the responsible parties can be held accountable for their actions.

He speaks about the Rigsbys from Page 6:

"I urge the subcommittee to seek the testimony of Cori and Kerri Rigsby. The Rigsby sisters were claims adjusters working for EA Renfroe and Co. Renfroe worked exclusively for State Farm. The sisters were disturbed by the fraud being committed by State Farm and Renfroe officials, so they copied incriminating documents and gave them to federal and state law enforcement officials. The Scruggs Law Firm represents the sisters in a False Claims Act filing against State Farm and Renfroe. The federal fraud case is still active.

" In response, Renfroe filed a retaliatory suit against the Rigsby sisters and obtained an injunction that required the sisters to return the copies of documents they provided to state and federal investigators. Because of the Renfroe suit, the only documents currently available to the public are those that are included in the False Claims Act filing.

These documents clearly demonstrated that Renfroe and State Farm covered up engineering reports that concluded --in the most explicit terms--that damage was caused by wind. Claims managers who never laid eyes on the damaged properties pressured engineers to revise their observations and conclusions. In some cases, claims managers sent a second engineer to write a report more favorable to State Farm.

The Rigsby sisters photo copied an engineering report with a handwritten note attached that said, "Put in Wind file --DO NOT Pay bill. DO NOT discuss." That report concluded that first floor damage had been caused primarily by wind. State Farm hid that report and ordered a second report. The second engineer blamed the damage on flooding.

The Rigsby sisters report that, within days after Katrina, State Farm coached its adjusters to pay the policy limits on flood insurance without a site inspection or an engineering report. In sharp contrast, State Farm required an engineering report

before paying any wind claims..."

The report goes on to discuss the relationship between State Farm and Haag Engineering that has included bad faith judgments, and then State Farm's relationship with Rimkus Consulting Group.

From: Ainsley Perrien
To: Martin, Brian
Subject: RE: MS Coast flood insurance
Date: Tuesday, October 09, 2007 11:00:00 AM

---

wow Brian.. guess you nailed that one.

I am very proud of you. (not that that of course matters but still)

ainsley

From: Martin, Brian [mailto:Brian.Martin@mail.house.gov]
Sent: Tuesday, October 09, 2007 11:00 AM
To: kchu@usatoday.com
Cc: Ainsley Perrien
Subject: MS Coast flood insurance

KATHY,

I understand you are investigating whether Mississippi Coast residents are buying more flood insurance after Katrina.

At the time of Katrina, there were 21,593 flood insurance policies in the three coastal counties of Mississippi for a total of $3.2 billion coverage.

As of June 30, 2007, there were 51,924 flood insurance policies in the three coastal counties for $10.2 billion coverage.

http://bsa.nfipstat.com/reports/1011_200706.htm

That is 140% more policies and 224% more coverage.

I hope you will write about the huge increase in flood coverage in Mississippi rather than looking for one or two people who dropped their coverage.

The main problem with flood insurance in coastal Mississippi is that FEMA still has not produced the new Flood Insurance Rate Maps. Their tedious bureaucratic process may not be completed until after almost everything is rebuilt.

Each of the cities and counties eventually increased flood elevations either by adopting the Advisory Base Flood Elevations recommended by FEMA or by simply adding a few feet to the old maps. However, those actions only affect the properties that already were in a 100-year flood zone. Homes that were not in an A or V zone in the old maps, but will be in an A or V zone in the new maps, are still not required to purchase flood insurance for a federally backed mortgage until the new maps are implemented.

I am sure that many people realized they needed flood insurance. However, the increase in flood insurance coverage is largely because it is required for anyone who received SBA or FEMA home repair assistance for flood damage, and because the State of Mississippi required all recipients of Homeowner Assistance Grants, funded by Congress through Community Development Block Grants, to attach covenants to their deeds requiring the property to be covered by flood insurance in perpetuity.

The state's requirement for the homeowner grants followed the lead of Congressman Taylor's bill H.R. 3922 introduced in Sept. 2005. Gene's bill would have funneled disaster assistance through the flood insurance program where an adjustment and claims process already exists. That would have worked

much faster and more efficiently than the LA Road Home and MS Homeowner Grant program. The Taylor bill would have required every recipient to attach a covenant to the deed to maintain flood insurance.

Also, if you want to look into what is wrong with the flood insurance program as a whole, read the recent GAO report that criticized NFIP for lack of oversight of the flood insurance operations of insurance companies.

http://www.gao.gov/new.items/d071078.pdf

In 2006, 64% of NFIP premiums went to pay administrative costs of insurance companies. GAO says it has no idea whether the payments are appropriate because the insurance companies do not have to report the actual administrative and operating costs of their flood business and only a handful of insurers have complied with the regulation requiring independent biennial audits. NFIP pays insurance companies according to formula – predetermined percentages of policies and claims – and does not compare the payments to actual costs or audits.

For Katrina claims, insurers definitely were overpaid. Many, many flood claims were not detailed adjustments where they had to go through the houses estimating how much drywall, how much flooring, how much paint, and estimating contractor costs. The insurance adjuster simply declared the house a total loss due to flooding and handed out checks for $150,000, $200,000, $250,000, or whatever the amount of the policy limits. The companies' processing of the claims was little more than telling NFIP how many hundreds of millions or billions of taxpayer dollars it needed to pay out. Perhaps you could ask the insurance companies how much they spent handling flood claims and how much they received from NFIP

Also, there is plenty of evidence that insurance companies cheated taxpayers by overpaying flood insurance claims. Please look at the qui tam filings in Mississippi and Louisiana and the RICO suit filed by Scruggs. Then try to find out why the Justice Department is not investigating and taking over these cases. Why isn't anyone writing that story?

Brian Martin
Policy Director
Rep. Gene Taylor
2269 Rayburn House Office Building
Washington, DC 20515
202-225-5772

From: Chu, Kathy
To: Martin, Brian
Cc: Ainsley Perrien
Subject: RE: MS Coast flood insurance
Date: Tuesday, October 09, 2007 11:32:37 AM

Brian

You don't have breakouts of new policies purchased in 2006 vs renewed in 2007, do you? Checking with FEMA on all these numbers. This may or may not be more of a Louisiana issue.

Thanks, and take care,

Kathy Chu
Reporter
USA TODAY

From: Martin, Brian [mailto:Brian.Martin@mail.house.gov]
Sent: Tuesday, October 09, 2007 11:00 AM
To: Chu, Kathy
Cc: aperrien@rendon.com
Subject: MS Coast flood insurance

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Brian Martin
Policy Director
Rep. Gene Taylor
2269 Rayburn House Office Building
Washington, DC 20515
202-225-5772

From: Ainsley Perrien
To: Zach Scruggs
Subject: just so you know
Date: Tuesday, October 09, 2007 8:30:00 PM

---

hi -- sorry I didn't get to talk to you. I did have contact with Cathy Chu and hooked her in with Brian Martin of Taylor's office.

I am trying to help her move around the gc. can you please give me a list of places (Scrantons) where she can go and talk to folks. Where is it that Dick likes breakfast? And what was that place near the court where we got the take out and brought back? I want to send her around to places where real people will tell her what is truly going on. and we should dig up a few folks the tuepkers the leonards etc that she can speak to. She is asking me, isn't it better yet? Cathy needs a reality check.

Also check out the website. we are in the midst of launching it. www.scruggskatrinagroup.com are you up for a blog? qui tam is what I'd like you to write about.

off to nyc tomorrow to see the times op-ed folks.

best, ainsley

From: Ainsley Perrien
To: "rwtaylor@ucktorman.com"
Subject: Adu
Date: Sunday, November 25, 2007 1:57:43 PM

Hi. According to my notes from speaking to cong taylors office -- we should ask saunders (staff director and legislative counsel) of the oversight and invest. Subcommittee of banking and finance- to request docs from insurance company, hold hearings where congress looks at the evidence and have the girls testify. They did look at the weiss case (?) And met w lawyers in the la. Qui tam case but never any of us.
Look forward to seeing you,
Ainsley

From: adam_zagorin@timemagazine.com
To: Ainsley Perrien
Subject: RE: Editorial: "A bizarre tale"
Date: Saturday, October 20, 2007 12:50:53 PM

---

okay -- the Grassley guy is named Jason Foster, he is Grassley's top investigator in whom Grassley has a lot
of confidence. This guy has been very helpful to me; he's very smart and experienced and you need to treat him very well. He's
a Christian, somewhat conservative, from Arkansas, but totally non-partisan when it comes whistleblowers, wrongdoing etc.
Pls do NOTNOT give out his phone number to anyone else, ever, not even months or years from now, or pass his name around to other investigators/lawyers etc,

You can reach him on a direct line at 228-5968. You SHOULD use my name, because I did tell him about the situation (quitam etc. //) and he will remember that I told him
someone would be getting in touch. He obviously made no commitment, but said the matter might well be of interest.

I am going to be in NYC and then in Wilmington w/Mary and the fam next week, so you can keep me in the loop
via email or, if necessary, on cell at 202-841-2115.

You should call Jason first thing Monday morning and put him in the loop. I told him, w/out going into details, that you had
whistleblowers in the form of staff for a supposedly independent sub-contractor whose only client is the insurance company.
Tell him that first, right away, and then let the story unfold

-----Original Message-----
From: Ainsley Perrien [mailto:aperrien@rendon.com]
Sent: Sat 10/20/2007 11:03 AM
To: Zagorin, Adam Time U.S. <adam_zagorin@timemagazine.com>
Subject: Fw: Editorial: 'A bizarre tale'

Hmmm. Pls help w grassley guy. I am now about to see dean zirby over there. I have a qui tam whiz flying in to assist me.

----- Original Message -----
From: Alert Desk
To: Ainsley Perrien
Sent: Sat Oct 20 10:36:59 2007
Subject: Editorial: 'A bizarre tale'

Editorial: 'A bizarre tale'

Media: Alabama Viewpoint
Byline: Bob Martin
Date: 20 October 2007
http://www.clarkecountydemocrat.com/news/2007/1018/Editorial/041.html

In 143 pages of sworn testimony under questioning by Congressional lawyers, both Democrat and Republican, a Rainsville attorney has told a bizarre tale about what she believes to have been a scheme

to put former Gov. Don Siegelman in prison.

Dana Jill Simpson, who has been an operative and supporter for Gov. Bob Riley, Judge Roy Moore, both George Bushes, Ronald Reagan and other Republicans. told a story about a plot to "get" Siegelman that she says involved the son of the governor, a former Supreme Court Justice, a powerful business lobbyist, federal prosecutors, a federal judge, the Public Integrity Section of the Justice Department and former White House advisor Karl Rove.

If she had not told this story under oath, questioned by lawyers for both political parties, and facing the possibility of being charged with perjury and losing her license to practice law if she lied, I would not be commenting on the matter.

It was interesting to me that what apparently tweaked Simpson's conscious occurred in the fall of 2006 when a Riley campaign worker wanted her to meet with the governor at a birthday party for him at the home of country musician Randy Owens. She testified that at that time "a disbarred lawyer working in the Riley campaign" and "a guy named Gerald Dial (a former State Senator), asked me to do something I was uncomfortable with."

So Simpson called "Doc" Barron, the brother of State Sen. Lowell Barron, because she said it was something about which "Lowell needed to be aware." Barron then recommended she call Montgomery attorney Joe Espy, who recommended she report what she knew to the State Bar. The Bar recommended that she call Richard Scrushy's lawyer, Art Leach, which she did.

Most of the information about which Simpson testified, came in conversations with Rob Riley, the governor's son, with whom she had a close working relationship. Simpson was what I call "a farm team lawyer," meaning she would refer cases to Riley's Birmingham law firm and earn what is called a "retainer fee."

She produced several exhibits at the hearing, including correspondence from Rob Riley, and records of the 11-minute call at 10:52 a.m. on Nov. 18, 2002 to Rob Riley at which time she said a possible Siegelman concession and withdrawal of his suit challenging the vote count in his loss to Bob Riley was discussed by Rob Riley, former Supreme Court Justice Terry Butts and Bill Canary, president of the Business Council of Alabama and husband of U. S. Attorney Leura Canary. She also identified other phone calls between her and Rob Riley during the 2002 campaign season, and identified a series of letters showing that she has regularly worked on legal matters with Rob Riley since 1998.

Other points

Other points Simpson made in her testimony were:

. that the case against Don Siegelman in the Northern District had been "miserably messed up" by United States Attorney Alice Martin and had been dismissed by a federal Judge in 2004;

that, with that case out of the way, Siegelman was now "the biggest threat" to Gov. Bob Riley in the coming 2006 governor's race;

that in late 2004, Canary and Gov Riley had spoken to Karl Rove about Siegelman and that Rove had approached the head of the Public Integrity Section of the Justice Department about bringing another case against Siegelman and giving more resources to the prosecution;

that the new case against Siegelman would be brought in the Middle District of Alabama and would be assigned to Chief Judge Mark Fuller, whom Rob Riley knew from college;

that "Fuller would hang Don Siegelman" because he believed Siegelman had caused Fuller to be audited when he was a district attorney, which exposed some questionable financial dealings by Fuller; and

that Siegelman would be indicted on charges related to Richard Scrushy because Scrushy was very unpopular and it would be useful to link the two men together.

Rob Riley has issued a blanket denial of Simpson's allegations and said he will offer his own selfproduced affidavit to the House Judiciary Committee. Butts has steadfastly denied he was on the telephone conversation in Birmingham.

Simpson has been interviewed by 60 Minutes. CBS tried to interview Siegelman, but were blocked by the government.

Simpson's testimony will be used by the House Judiciary Committee in connection with its broader investigation into suggestions of political prosecutions by the Justice Department and the firing of eight U. S. Attorneys.

Bob Martin is editor and publisher of The Montgomery Independent. E-mail him at: bob@montgomeryindependent. com

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From: Ainsley Perrien
To: "normkurz@gmail.com"
Subject: Grassleys guy
Date: Wednesday, October 31, 2007 8:55:11 AM

Jason foster sen grassley 228 5968. He is lead investigator. Said he mentioned it to nick (some name that begins w p like pecorino) who is on grassleys judiciary staff and there could be interest. He does not know of scruggs _ never heard of him leahys gal will have to carry that ball. Pls have her call him. I can have tony write up some bullets to send them. Tx

From: Ainsley Perrien
To: "normkurz@gmail.com"
Subject: Re: leahy
Date: Friday, November 02, 2007 2:19:18 PM

Not really he's not there yet.

----- Original Message -----
From: norm kurz <normkurz@gmail.com>
To: Ainsley Perrien
Sent: Fri Nov 02 12:52:10 2007
Subject: Re: leahy

agree, but perhaps you could get jason to call her and work it from that end

On Nov 2, 2007 11:44 AM, Ainsley Perrien <aperrien@rendon.com> wrote:
>
>
>
> Hmm sounds like she may feel this is farther along w grassley than it is.
> I'd like her to help us hook jason.
>
>
>
> ----- Original Message -----
> From: norm kurz <normkurz@gmail.com>
> To: Ainsley Perrien
> Sent: Fri Nov 02 12:22:02 2007
> Subject: leahy
>
> here is the note i just got back from kristine lucius...
>
> Hi Norm, I will find out who in my office worked on the qui tam
> legislation and pass along your message about grassley's interest.
> Chairman Leahy just allowed Senator Grassley to chair a hearing on
> another subject so if qui tam is a hearing that Grassley would like to
> hold, he certainly should request it with Chairman Leahy. There was not
> a question posed to mukasey on your issue. It just didn't make the
> final cut. --K
>
>

From: Acton, Jason
To: Caryn Nesmith
Cc: Ainsley Perrien
Subject: FW: Documents for Grassley, Leahy (email 2a of 3)
Date: Wednesday, November 07, 2007 4:55:29 PM
Attachments: 2006-9-6 Renfroe Complaint.PDF
Order Granting Preliminary Injunction (Renfroe v. Rigsby).PDF
ORDER re Notice of Interlocy Appeal AFFIRMING the decision of the District Court.PDF

---

email 2a of 3

Jason Acton Tel: 202.778.1860 Fax: 202.822.8106 jacton@zuckerman.com

Jason Acton Tel: 202.778.1860 Fax: 202.822.8106 jacton@zuckerman.com

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From: Acton, Jason
Sent: Wednesday, November 07, 2007 4:40 PM
To: 'cnesmith@rendon.com'
Cc: 'Ainsley Perrien'
Subject: Documents for Grassley, Leahy

Caryn,

Attached are the documents for the binders to leave behind for the meetings with Senator Grassley's staff and Senator Leahy's staff. I did not include the materials regarding U.S. v. Scruggs (#14 on the attached index). If you have any questions, you can reach me at 202.778.1860.

1. 20/20 Interview of the Rigsbys (cd and transcript);

2. A set of media stories about the Rigsbys (from the SKG website, the Sun Herald and the Jackson Clarion Ledger);

3. Amended Qui Tam Complaint;

4. U.S. Brief in Opposition to Realtors' Motion to Lift the Seal (7/24/07);

5. Order staying discovery in the qui tam suit (8/7/07);

6. U.S. Brief in Opposition to Realtors' Motion to Lift Stay of Discovery (10/31/07);

7. Renfroe's Amended Complaint;

8. Judge Acker's Preliminary Injunction (12/11/06);

9. Eleventh Circuit's decision affirming the injunction (8/24/07);

10. Jana Renfroe's deposition testimony (3/13/07);

11. Copies of Renfroe's and State Farm's subpoenas to the Rigsbys' lawyers;

12. State Farm's subpoena to AOL for Cori Rigsby's email account;

13. Rep. Gene Taylor's statement to the House Financial Services Subcommitee on Oversight and Investigations (attaching key documents, including the infamous "post it note" report).

Jason Acton Tel: 202.778.1860 Fax: 202.822.8106 jacton@zuckerman.com

From: Ainsley Perrien
To: Bryan Rich
Subject: Re: TP's
Date: Tuesday, November 13, 2007 1:09:23 PM

Girls. Fca.

----- Original Message -----
From: Bryan Rich
To: Ainsley Perrien
Sent: Tue Nov 13 12:58:43 2007
Subject: Re: TP's

which one for scruggs or rigsby and what should the one single take away be for the viewer— attack on rust the great american insurance rip off or something to do with FCA
--

From: Ainsley Perrien <aperrien@rendon.com>
Date: Tue, 13 Nov 2007 12:31:16 -0500
To: Bryan Rich <brich@rendon.com>
Conversation: TP's
Subject: RE: TP's

have had a crushing day ... will you work on utube script so I can get lawyers to read it...

From: Bryan Rich
Sent: Mon 11/12/2007 1:21 PM
To: Ainsley Perrien
Subject: TP's

--

The following actions will kick start interest by major media in seeking to have Dickie and or Proxy tell the story that needs to be told, put SF and others on the defensive, etc:

1. Unleash a personalized attack on Ed Rust outing their strategy for all to see - nlt than tomorrow
2. Rigsby attack on insurance industry and law enforcement - nlt tomorrow
3. Wigand p-Ed I Major media nlt than tomorrow
4. letter written by Leahy or Grassley linking the Iraq FCA to Katrina as soon as possible

Tactic: SKGBlogs and You Tube attack supported by PR Newswire release of one or all of the following-

1. Dickie on camera relaxed in a professionals setting needs to take a piece of flesh out of Ed Rust's ass

a) Insurance industry led by Ed Rust is paying for the systematic dismantling of checks and balances on the insurance industry in America for the ultimate rip off of the American homeowner- Ed is hiding fraud and criminal activity which could land him in prison behind endless legal actions with one sole purpose- to keep information that proves he engaged in criminal activity secret. The insurance industry not unlike contractors in Iraq have pereptrated false claims again the American taxpayer up to 4 billion dollars- Ed Rust is a "pain-profiteer"

b) The Insurance industry with ed's direct or indirect knowledge is engaged in racketeering and election fraud in Mississippi by making millions of dollars in anonymous donations to their candidates of choice- documents available at www.xxxx show that contributors who listed their occupations as unknown were actually officials of the insurance companies. The sole purpose is to keep America f rom knowing that they have been defrauded of up to 4 billion dollars.

c) Major media has been deceived by the PR machine of the Ins. Ind.- people quoted as independent sources have actually been paid proxies for the insurance industry starting with- misinformation, election fraud and lying to homeowners, etc....the same protection sought and needed for Whistleblowers in the FCA cases for contractor fraud in Iraq needs to be applied to domestic FCA against American homeowners.

c) We will not rest until ever last exectuive has been forced to testify before congress

2. Rigsby:

a) Lawyers for big insurance funded by state farm and others are seeking to criminalize the telling of the truth in America- we found deliberate fraud and criminal actions that had one sole beneficiary- State Farm Insurance company- they are using the legal system to keep information confidential that would demonstrate to the american people that they are a criminal organization posing as an insurance company.

b) Sf has tried to make this case about billionaire dickie scruggs to out the issue out of focus and shift attention from their criminal actions to the actions of one of america's most prominant lawyers- this is about me and my sister- two Americans who busted a giant corporation engaging criminal activity and now find ourselves ont eh butt end of a legal misinformation campaign paid for by the insurance industry.

3. Blog- find an innocent victim of the Spanish inquisition and name the blogger such- this person should do nothing but amplify the information that helps our story

4. Wigand- needs to happen immediately- make this about FCA and Iraq

From: Ainsley Perrien
To: Robert Page
Subject: RE: Whistle-Blower Awards
Date: Wednesday, February 07, 2007 1:57:00 PM

Hi Rob. I am planning on coming in. I would like to see the list of awards you've identified Wigand and local.

I put in a call to Trent Lott's office to see if they could help on the awards...I'll let you know if I come up with anything on that front.

Sheila -- we've done no research yet on her. I am looking for tactical insights. How she operates. Please just look and see if there is stuff out there on her. Look in trade and national pubs. Also google her to see if she has given speeches or if she's been profiled in general.

thanks.

From: Rob Page III [mailto:rpage@rendon.com]
Sent: Wednesday, February 07, 2007 12:52 PM
To: Ainsley Perrien
Cc: James Bosworth
Subject: Re: Whistle-Blower Awards

Ainsley,

I haven't heard anything back from you about the whistle-blower awards. I mentioned a couple of generic clubs such as Rotary or Lions Club, but in talking with James he also suggested looking at who Scruggs or someone else knows. Maybe one of them can talk to a local organization or a contact they have. Looking at Wigand received it was mostly at the local level.

Second, I am going to do some research into Sheila Birnbaum as requested by James. He gave me some points to focus on. Is there anything you already have about her that I could use so I don't duplicate research that has already been done. Additionally, could you share with me particular things you would like me to try and find out in relation to Ms. Birnbaum?

Cheers,
Rob

Rob Page III wrote:

> Ainsley,
>
> This is what I have from the research. You are correct that there is a fair amount of information out there. A lot of what is out there is related to fraud against the government though, and the whistle-blowers garner their rewards by sharing the fines that the government collects. I can give you some more information on this if you want, but most of it is related to the Sarbanes-Oxley Legislation that was past after all the Wall Street Scandals.

There seem to be some generic citizenship awards out there and they vary by state. I have one in my list. Attached are two documents. The first is the same as below. The second is all the awards Jeffrey Wigand has collected (and posted on his list). The overwhelming majority of them are related to anti-smoking causes and come from local cancer societies and similar organizations.

Maybe you want to push for local organizations along the Gulf Coast to give the Rigsby girls an award. Off the top of my head I can recommend local municipalities and groups such as the Lions Club or Rotary.

Whistle Blowing Information

Updated on 06 February 2007

Awards:

Beyond the Headlines

Project on Government Oversight - http://www.pogo.org/p/x/beyondhead.html

to honor an activist, journalist, politician, or whistleblower who has gone beyond gaining headline attention to positively influencing public policy.

Joe A. Callaway Award for Civic Courage

The Callaway Award recognizes courageous individuals who, with integrity and at some personal risk, take a public stance to advance truth and justice, and who challenged prevailing conditions in pursuit of the common good.

Attorney General's Public Service Award

The state of Indiana presented one to Jeffrey Wigand in 1999

Thomas M. Griffin was awarded one from the State of New York for his work with immigrants – 1992

Citizen Activist Award

Offered by the Gleitsman Foundation

U.S. Office of Special Counsel (OSC) "Public Servant of the Year"

http://www.osc.gov/documents/press/2006/pr06_16.htm

The Ridenhour Prizes

This is a yearly award with a deadline of December 31, 2007

http://www.ridenhour.org/

Organizations:

Government Accountability Project

http://www.whistleblower.org/template/index.cfm

The Government Accountability Project (GAP) promotes government and corporate accountability by advancing occupational free speech, defending whistleblowers, and empowering citizen activists. This group is very active in promoting whistle-blower rights while offering a lot of information to whistleblowers.

National Whistleblower Center

http://www.whistleblowers.org/

This organization worked hard in the wake of the corporate scandals (Enron, WorldCom, etc.) in the early 2000's to give more protection to whistleblowes. It helped to promot the Sarbanese Oxley Act of 2002. The primary goal of the Center is to ensure that disclosures about government or industry actions that violate the law or harm the environment are fully heard, and that the whistleblowers who risk their careers to expose wrongdoing are defended. It insists officials be held fully accountable for their conduct.

Whistleblower Laws

http://www.whistleblowerlaws.com/whistleblower.htm

This website focuses on fraud related to the US government.

Hirst & Chanler LLP

http://www.hirst-chanler.com/

This is a firm that specializes in cases related to whistleblowing.

The Ridenhour Prizes

http://www.ridenhour.org/

The Ridenhour Prizes seek to recognize and encourage those who persevere in acts of truth-telling that protect the public interest, promote social justice or illuminate a more just vision of society.

The Gleitsman Foundation

http://www.gleitsman.org/

This is an organization devoted to leadership in social activism worldwide and they offer the "Citizen Activist Award."

Media:

Time Magazine:

http://www.time.com/time/subscriber/personoftheyear/2002/poyintro.html

Time's "Person of the Year" in 2002 was Cynthia Cooper, Coleen Rowley and Sherron Watkins. The three of them revealed improprieties at their respective organizations.

60 minutes – CBS News

http://www.cbsnews.com/sections/60minutes/main3415.shtml

Helped to bring the tobacco industry's transgressions into the spotlight with an interview of Jeffrey Wigand.

Well known whistleblowers:

Jeffrey Wigand:

Tobacco Industry

http://www.jeffreywigand.com/insider/about.html

Low priority:

PEER – Public Employees for Environmental Responsibility

http://www.peer.org/

"As a service organization assisting federal & state public employees, PEER allows public servants to work as "anonymous activists" so that agencies must confront the message, rather than the messenger."

From: Ainsley Perrien
To: Robert Page
Subject: Re: Adu
Date: Monday, November 26, 2007 1:12:13 PM

Pls make 2. One for adu and one for erika jeffers in frank's office. Thanks. I will be dropping them off tomorrow.

----- Original Message -----
From: Ainsley Perrien
To: Robert Page
Sent: Mon Nov 26 12:36:31 2007
Subject: Re: Adu

Grassley

----- Original Message -----
From: Robert Page
To: Ainsley Perrien
Sent: Mon Nov 26 10:31:57 2007
Subject: Re: Adu

What do you want on the CD?
The stuff we sent to Grassley? Or stuff related to the information I
just sent you?

Ainsley Perrien wrote:
>
> Do you have a cd for them ready??
>
> ----- Original Message -----
> From: Robert Page
> To: Taylor, William W. <wwtaylor@zuckerman.com>; Ainsley Perrien
> Sent: Mon Nov 26 10:07:46 2007
> Subject: Re: Adu
>
> Representative Mel Watt and Insurance
>
> • Summary
> •• Representative Mel Watt, the House Financial Services Committee, and
> its sub-committees have held a couple of hearings about Katrina and
> Insurance related questions in 2007. These hearings are supposed to be a
> part of a series, but it appears only two have taken place. In the
> second hearing representatives from DHS and GAO testified that their
> respective investigations did not find fraud, but they could not rule it
> out because they did not have full access to wind related data. They
> both recommended greater oversight and increased access to wind data.
> •• From the GAO investigation, "The lack of both flood and wind damage
> data also limits the usefulness of FEMA's quality assurance reinspection
> program for NFIP flood claims."
> • February 28, 2007
> •• On February 28, 2007 there was a hearing, "Insurance Claims Payment
> Processes in the Gulf Coast after the 2005 Hurricanes," overseen by the
> Oversight and Investigations Subcommittee. At this hearing
> Representative Watts presented the opening remarks and laid out why the
> hearing had been convened. His main point was there had been a breakdown
> in the insurance system after Hurricanes Katrina and Rita. This
> breakdown thus led to unhappiness among politicians, policyholders,

> private insurers, and potentially taxpayers. Representative Watt's goal
> in this hearing was to build a factual background of events, not develop
> new legislation.
> •• Witness List
> ••• Panel One:
> •••• Gene Taylor (D-MS);
> •••• William J. Jefferson (D-LA);
> •••• Bobby Jindal (D-LA)
> ••• Panel Two:
> •••• David Maurstad, Director and Federal Insurance Administrator,
> Mitigation Division, Federal Emergency Management Agency, U.S.
> Department of Homeland Security.
> •••• Dr. Robert P. Hartwig, President and Chief Economist, Insurance
> Information Institute.,
> •••• The Honorable Jim Hood, Attorney General, State of Mississippi
> • June 12, 2007
> •• On June 12, 2007 Representative Watt heard from Mr. Matt Jadacki of
> the Department of Homeland Security (DHS). Mr. Jadacki presented the
> findings of a DHS investigation that had been initiated by an
> appropriations bill. He testified that his office hadn't found
> improprieties, but that not all of the necessary data had been
> available. He recommended increased oversight and greater access to data.
> •• Ms. Orice M. Williams, from the Government Accountability Office
> (GAO), also testified. In 2006, the former chairman of the Financial
> Services Committee, Mike Oxley, requested in a letter that the GAO
> investigate issues related to the allocation of damage between wind and
> water. GAO results were similar to the DHS's because it too did not have
> access to all of the data.
> • Other Information
> •• Congressman Taylor (D-MS) has pushed for the NFIP to be expanded to
> provide multi peril insurance. His sponsored bill passed in the House in
> September, but did not pass in the Senate.
> •• Congressman Paul E. Kanjorski (D-PA), Chairman of the Subcommittee on
> Capital Markets, Insurance, and Government Sponsored Enterprises, is
> holding a series of hearings on insurance regulatory reform.
> •• In October 2007 Representative Watt chaired a hearing that looked at
> the fairness of using one's credit score to determine insurance rates.
>
>
>
> Taylor, William W. wrote:
> >
> >
> > Ainsley, our meeting with Sanders is at 11....why dont you come to my
> > office at 10:15 and I will give you a ride.
> >
> >
> > William Taylor 202.778.1810 wwtaylor@zuckerman.com
> > <http://mm1.lettermark.net/zuckerman/card/HHTG_11.mac>
> >
> >
> > ----------
> > *From:* Ainsley Perrien [mailto:aperrien@rendon.com]
> > *Sent:* Friday, October 05, 2007 6:26 PM
> > *To:* Taylor, William W.; Robert Page
> > *Subject:* Re: Adu
> >
> > Rob can you please do this for me and Bill Taylor? We have a meeting
> > at 10. His law firm is still sleeping at 10. Can you do the research
> > on this and call w questions (me) also make a disk like we made for

> > Grassley. I will be in by 8:30..
> >
> > This is Mel Watt's subcommittee.
> >
> >
> > On 11/25/07 7:54 PM, "Taylor, William W." <wwtaylor@zuckerman.com>
> wrote:
> >
> >
> >
> > We need to know what if anything the committee has done formally,
> > whether it intends to do anythign else, and what it could use from
> > us. The committee is working on a new flood insurance law ...do
> > you know anything aboaut it. We should know before meeting if we
> > can. Bring a disk.
> >
> >
> >
> > <http://mm1.lettermark.net/zuckerman/card/HHTG_11.map>
> >
> >
> > ---
> > *From:* Ainsley Perrien [mailto:aperrien@rendon.com]
> > <mailto:aperrien@rendon.com%5D>
> > *Sent:* Sunday, November 25, 2007 1:58 PM
> > *To:* Taylor, William W.
> > *Subject:* Adu
> >
> > Hi. According to my notes from speaking to cong taylors office --
> > we should ask saunders (staff director and legislative counsel) of
> > the oversight and invest. Subcommittee of banking and finance- to
> > request docs from insurance company, hold hearings where congress
> > looks at the evidence and have the girls testify. They did look at
> > the weiss case (?) And met w lawyers in the la. Qui tam case but
> > never any of us.
> > Look forward to seeing you,
> > Ainsley
> >
> >
>

From: Taylor, William W.
To: Ainsley Perrien
Subject: RE: Disks delivered
Date: Tuesday, November 27, 2007 1:23:53 PM

Yes...she is not moving

Sent from my GoodLink synchronized handheld (www.good.com)

-----Original Message-----
From: **Ainsley Perrien** [mailto:aperrien@rendon.com]
Sent: **Tuesday, November 27, 2007 12:59 PM Eastern Standard Time**
To: **Taylor, William W.**
Subject: **Disks delivered**

Hi cds were dropped off to erika in frank's office and the book and cd to saunders adu w a page on qui tam changes suggestons. Balls in your court on docs. Best aap
Ps. Did you call wpost reporter??

EXHIBIT 1

IN THE CIRCUIT COURT HARRISON COUNTY, MISSISSIPPI
SECOND JUDICIAL DISTRICT
SUBPOENA DUCES TECUM--GRAND JURY

TO THE SHERIFF OF HARRISON COUNTY, MISSISSIPPI, OR TO ANY OTHER PERSON AUTHORIZED TO SERVE PROCESS, GREETINGS:

You are hereby directed to summon Rick Moore, an agent or employee of State Farm Insurance Company, located at 1721 Medical Park Drive, Biloxi, Mississippi 39532, to be and appear before the Harrison County Grand Jury at 9:00 a.m. on March 23, 2006, in the courthouse in Biloxi, Mississippi, to testify on behalf of the State of Mississippi, and to then and there have and produce the following:

(1) copies of all reports of engineering investigations and evaluations pertaining to the assessment of reported Hurricane Katrina damage to residences insured by State Farm Insurance Company and located in Hancock, Harrison, and Jackson Counties, Mississippi, which reports were (a) prepared by any and all engineers or agents and employees of engineering firms and (b) submitted to agents or employees of State Farm Insurance Company; and

(2) copies of all documents pertaining to claims for reported property damage where the claims: (a) were made by agents or employees of State Farm Insurance Company; (b) involved reported Hurricane Katrina damage to residences which were owned by said employees and agents, which were located in Hancock, Harrison or Jackson County, Mississippi, and which were insured by State Farm Insurance Company; and (c) were paid or denied; and

(3) printouts of all (a) electronic data and (b) wire and electronic communications which are stored, held, or maintained in the computer systems of State Farm Insurance Company, and which pertain to the reports, evaluations, claims and documents described in subsections (1) and (2) above.

Miss. Code Ann. §99-9-21 states that every witness subpoenaed in any criminal case, shall attend, from day to day, and from term to term without further notice, until discharged by the court or by the party at whose instance he was subpoenaed.

In lieu of such appearance, the person named above, within six (6) calendar days from the day this subpoena is served, may deliver the described documents to Lynn Gunn, an agent of the Office of the Mississippi Attorney General, or to any other properly identified agent of said office.

WITNESS my hand and seal, this the 16th day of March, 2006.

GAYLE PARKER
CIRCUIT CLERK OF HARRISON COUNTY

BY: Lynn Tisdell, D.C.

Timothy Craig Howard
Special Assistant Attorney General
P.O. Box 2
Jackson, MS 39205
(601) 359-4250